

245.....	.3625
246.....	.3875
247.....	.4125
248.....	.4375
249.....	.4625
250.....	.4875
251.....	.5125
252.....	.5375
253.....	.5625
254.....	.5875
255.....	.6125
256.....	.6375
257.....	.6625
258.....	.6875
259.....	.7125
260.....	.7375
261.....	.7625
262.....	.7875
263.....	.8125
264.....	.8375
265.....	.8625
266.....	.8875
267.....	.9125
268.....	.9375
269.....	.9625
270.....	.9875
271.....	855.0125
272.....	.0375
273.....	.0625
274.....	.0875
275.....	.1125
276.....	.1375
277.....	.1625
278.....	.1875
279.....	.2125
280.....	.2375
281.....	.2625
282.....	.2875
283.....	.3125
284.....	.3375
285.....	.3625
286.....	.3875
287.....	.4125
288.....	.4375
289.....	.4625
290.....	.4875
291.....	.5125
292.....	.5375
293.....	.5625

294.....	.5875
295.....	.6125
296.....	.6375
297.....	.6625
298.....	.6875
299.....	.7125
300.....	.7375
301.....	.7625
302.....	.7875
303.....	.8125
304.....	.8375
305.....	.8625
306.....	.8875
307.....	.9125
308.....	.9375
309.....	.9625
310.....	.9875
311.....	856.0125
312.....	.0375
313.....	.0625
314.....	.0875
315.....	.1125
316.....	.1375
317.....	.1625
318.....	.1875
319.....	.2125
320.....	.2375
321.....	.2625
322.....	.2875
323.....	.3125
324.....	.3375
325.....	.3625
326.....	.3875
327.....	.4125
328.....	.4375
329.....	.4625
330.....	.4875
331.....	.5125
332.....	.5375
333.....	.5625
334.....	.5875
335.....	.6125
336.....	.6375
337.....	.6625
338.....	.6875
339.....	.7125
340.....	.7375
341.....	.7625
342.....	.7875

343.....	.8125
344.....	.8375
345.....	.8625
346.....	.8875
347.....	.9125
348.....	.9375
349.....	.9625
350.....	.9875
351.....	857.0125
352.....	.0375
353.....	.0625
354.....	.0875
355.....	.1125
356.....	.1375
357.....	.1625
358.....	.1875
359.....	.2125
360.....	.2375
361.....	.2625
362.....	.2875
363.....	.3125
364.....	.3375
365.....	.3625
366.....	.3875
367.....	.4125
368.....	.4375
369.....	.4625
370.....	.4875
371.....	.5125
372.....	.5375
373.....	.5625
374.....	.5875
375.....	.6125
376.....	.6375
377.....	.6625
378.....	.6875
379.....	.7125
380.....	.7375
381.....	.7625
382.....	.7875
383.....	.8125
384.....	.8375
385.....	.8625
386.....	.8875
387.....	.9125
388.....	.9375
389.....	.9625
390.....	.9875
391.....	858.0125

392.....	.0375
393.....	.0625
394.....	.0875
395.....	.1125
396.....	.1375
397.....	.1625
398.....	.1875
399.....	.2125
400.....	.2375
401.....	.2625
402.....	.2875
403.....	.3125
404.....	.3375
405.....	.3625
406.....	.3875
407.....	.4125
408.....	.4375
409.....	.4625
410.....	.4875
411.....	.5125
412.....	.5375
413.....	.5625
414.....	.5875
415.....	.6125
416.....	.6375
417.....	.6625
418.....	.6875
419.....	.7125
420.....	.7375
421.....	.7625
422.....	.7875
423.....	.8125
424.....	.8375
425.....	.8625
426.....	.8875
427.....	.9125
428.....	.9375
429.....	.9625
430.....	.9875
431.....	859.0125
432.....	.0375
433.....	.0625
434.....	.0875
435.....	.1125
436.....	.1375
437.....	.1625
438.....	.1875
439.....	.2125
440.....	.2375

441.....	.2625
442.....	.2875
443.....	.3125
444.....	.3375
445.....	.3625
446.....	.3875
447.....	.4125
448.....	.4375
449.....	.4625
450.....	.4875
451.....	.5125
452.....	.5375
453.....	.5625
454.....	.5875
455.....	.6125
456.....	.6375
457.....	.6625
458.....	.6875
459.....	.7125
460.....	.7375
461.....	.7625
462.....	.7875
463.....	.8125
464.....	.8375
465.....	.8625
466.....	.8875
467.....	.9125
468.....	.9375
469.....	.9625
470.....	.9875
471.....	860.0125
472.....	.0375
473.....	.0625
474.....	.0875
475.....	.1125
476.....	.1375
477.....	.1625
478.....	.1875
479.....	.2125
480.....	.2375
481.....	.2625
482.....	.2875
483.....	.3125
484.....	.3375
485.....	.3625
486.....	.3875
487.....	.4125
488.....	.4375
489.....	.4625

490.....	.4875
491.....	.5125
492.....	.5375
493.....	.5625
494.....	.5875
495.....	.6125
496.....	.6375
497.....	.6625
498.....	.6875
499.....	.7125
500.....	.7375
501.....	.7625
502.....	.7875
503.....	.8125
504.....	.8375
505.....	.8625
506.....	.8875
507.....	.9125
508.....	.9375
509.....	.9625
510.....	.9875
511.....	861.0125
512.....	.0375
513.....	.0625
514.....	.0875
515.....	.1125
516.....	.1375
517.....	.1625
518.....	.1875
519.....	.2125
520.....	.2375
521.....	.2625
522.....	.2875
523.....	.3125
524.....	.3375
525.....	.3625
526.....	.3875
527.....	.4125
528.....	.4375
529.....	.4625
530.....	.4875
531.....	.5125
532.....	.5375
533.....	.5625
534.....	.5875
535.....	.6125
536.....	.6375
537.....	.6625
538.....	.6875

539.....	.7125
540.....	.7375
541.....	.7625
542.....	.7875
543.....	.8125
544.....	.8375
545.....	.8625
546.....	.8875
547.....	.9125
548.....	.9375
549.....	.9625
550.....	.9875
551.....	862.0125
552.....	.0375
553.....	.0625
554.....	.0875
555.....	.1125
556.....	.1375
557.....	.1625
558.....	.1875
559.....	.2125
560.....	.2375
561.....	.2625
562.....	.2875
563.....	.3125
564.....	.3375
565.....	.3625
566.....	.3875
567.....	.4125
568.....	.4375
569.....	.4625
570.....	.4875
571.....	.5125
572.....	.5375
573.....	.5625
574.....	.5875
575.....	.6125
576.....	.6375
577.....	.6625
578.....	.6875
579.....	.7125
580.....	.7375
581.....	.7625
582.....	.7875
583.....	.8125
584.....	.8375
585.....	.8625
586.....	.8875
587.....	.9125

588.....	.9375
589.....	.9625
590.....	.9875
591.....	863.0125
592.....	.0375
593.....	.0625
594.....	.0875
595.....	.1125
596.....	.1375
597.....	.1625
598.....	.1875
599.....	.2125
600.....	.2375
601.....	.2625
602.....	.2875
603.....	.3125
604.....	.3375
605.....	.3625
606.....	.3875
607.....	.4125
608.....	.4375
609.....	.4625
610.....	.4875
611.....	.5125
612.....	.5375
613.....	.5625
614.....	.5875
615.....	.6125
616.....	.6375
617.....	.6625
618.....	.6875
619.....	.7125
620.....	.7375
621.....	.7625
622.....	.7875
623.....	.8125
624.....	.8375
625.....	.8625
626.....	.8875
627.....	.9125
628.....	.9375
629.....	.9625
630.....	.9875
631.....	864.0125
632.....	.0375
633.....	.0625
634.....	.0875
635.....	.1125
636.....	.1375

637.....	.1625
638.....	.1875
639.....	.2125
640.....	.2375
641.....	.2625
642.....	.2875
643.....	.3125
644.....	.3375
645.....	.3625
646.....	.3875
647.....	.4125
648.....	.4375
649.....	.4625
650.....	.4875
651.....	.5125
652.....	.5375
653.....	.5625
654.....	.5875
655.....	.6125
656.....	.6375
657.....	.6625
658.....	.6875
659.....	.7125
660.....	.7375
661.....	.7625
662.....	.7875
663.....	.8125
664.....	.8375
665.....	.8625
666.....	.8875
667.....	.9125
668.....	.9375
669.....	.9625
670.....	.9875
671.....	865.0125
672.....	.0375
673.....	.0625
674.....	.0875
675.....	.1125
676.....	.1375
677.....	.1625
678.....	.1875
679.....	.2125
680.....	.2375
681.....	.2625
682.....	.2875
683.....	.3125
684.....	.3375
685.....	.3625

686.....	.3875
687.....	.4125
688.....	.4375
689.....	.4625
690.....	.4875
691.....	.5125
692.....	.5375
693.....	.5625
694.....	.5875
695.....	.6125
696.....	.6375
697.....	.6625
698.....	.6875
699.....	.7125
700.....	.7375
701.....	.7625
702.....	.7875
703.....	.8125
704.....	.8375
705.....	.8625
706.....	.8875
707.....	.9125
708.....	.9375
709.....	.9625
710.....	.9875
711.....	866.0125
712.....	.0375
713.....	.0625
714.....	.0875
715.....	.1125
716.....	.1375
717.....	.1625
718.....	.1875
719.....	.2125
720.....	.2375
721.....	.2625
722.....	.2875
723.....	.3125
724.....	.3375
725.....	.3625
726.....	.3875
727.....	.4125
728.....	.4375
729.....	.4625
730.....	.4875
731.....	.5125
732.....	.5375
733.....	.5625
734.....	.5875

735.....	.6125
736.....	.6375
737.....	.6625
738.....	.6875
739.....	.7125
740.....	.7375
741.....	.7625
742.....	.7875
743.....	.8125
744.....	.8375
745.....	.8625
746.....	.8875
747.....	.9125
748.....	.9375
749.....	.9625
750.....	.9875
751.....	867.0125
752.....	.0375
753.....	.0625
754.....	.0875
755.....	.1125
756.....	.1375
757.....	.1625
758.....	.1875
759.....	.2125
760.....	.2375
761.....	.2625
762.....	.2875
763.....	.3125
764.....	.3375
765.....	.3625
766.....	.3875
767.....	.4125
768.....	.4375
769.....	.4625
770.....	.4875
771.....	.5125
772.....	.5375
773.....	.5625
774.....	.5875
775.....	.6125
776.....	.6375
777.....	.6625
778.....	.6875
779.....	.7125
780.....	.7375
781.....	.7625
782.....	.7875
783.....	.8125

784.....	.8375
785.....	.8625
786.....	.8875
787.....	.9125
788.....	.9375
789.....	.9625
790.....	.9875
791.....	868.0125
792.....	.0375
793.....	.0625
794.....	.0875
795.....	.1125
796.....	.1375
797.....	.1625
798.....	.1875
799.....	.2125
800.....	.2375
801.....	.2625
802.....	.2875
803.....	.3125
804.....	.3375
805.....	.3625
806.....	.3875
807.....	.4125
808.....	.4375
809.....	.4625
810.....	.4875
811.....	.5125
812.....	.5375
813.....	.5625
814.....	.5875
815.....	.6125
816.....	.6375
817.....	.6625
818.....	.6875
819.....	.7125
820.....	.7375
821.....	.7625
822.....	.7875
823.....	.8125
824.....	.8375
825.....	.8625
826.....	.8875
827.....	.9125
828.....	.9375
829.....	.9625
830.....	.9875

* * * * *

28. A new section 90.614 is added immediately after the text of Section 90.613 as follows:

§ 90.614 Cellular and non-cellular portions of 806-824/851-869 MHz band for non-border areas.

The 806-824/851-869 MHz band ("800 MHz band") will be divided as follows at locations farther than 110 km (68.4 miles) from the U.S./Mexico border and 140 km (87 miles) from the U.S./Canadian border ("non-border areas")

- (a) 800 MHz cellular systems – as defined in § 90.7 – are prohibited from operating on channels 1-550 in non-border areas.
- (b) 800 MHz cellular systems – as defined in § 90.7 – are permitted to operate on channels 551-830 in non-border areas.
- (c) In the following counties and parishes, 800 MHz cellular systems – as defined in § 90.7 – are permitted to operate on channels 411-830:

Alabama

Autauga, Baldwin, Barbour, Bibb, Blount, Bullock, Butler, Calhoun, Chambers, Cherokee, Chilton, Choctaw, Clarke, Clay, Cleburne, Coffee, Colbert, Conecuh, Coosa, Covington, Crenshaw, Cullman, Dale, Dallas, DeKalb, Elmore, Escambia, Etowah, Fayette, Franklin, Geneva, Greene, Hale, Henry, Houston, Jackson, Jefferson, Lamar, Lauderdale, Lawrence, Lee, Limestone, Lowndes, Macon, Madison, Marengo, Marion, Marshall, Mobile, Monroe, Montgomery, Morgan, Perry, Pickens, Pike, Randolph, Russell, Shelby, St Clair, Sumter, Talladega, Tallapoosa, Tuscaloosa, Walker, Washington, Wilcox, Winston

Florida

Bay, Calhoun, Escambia, Franklin, Gadsden, Gulf, Holmes, Jackson, Jefferson, Leon, Liberty, Madison, Nassau, Okaloosa, Santa Rosa, Taylor, Wakulla, Walton, Washington

Georgia

Appling, Atkinson, Bacon, Baker, Baldwin, Banks, Barrow, Bartow, Ben Hill, Berrien, Bibb, Bleckley, Brantley, Brooks, Bryan, Bulloch, Burke, Butts, Calhoun, Camden, Candler, Carroll, Catoosa, Charlton, Chatham, Chattahoochee, Chattooga, Cherokee, Clarke, Clay, Clayton, Clinch, Cobb, Coffee, Colquitt, Columbia, Cook, Coweta, Crawford, Crisp, Dade, Dawson, Decatur, DeKalb, Dodge, Dooly, Dougherty, Douglas, Early, Echols, Effingham, Elbert, Emanuel, Evans, Fannin, Fayette, Floyd, Forsyth, Franklin, Fulton, Gilmer, Glascock, Glynn, Gordon, Grady, Greene, Gwinnett, Habersham, Hall, Hancock, Haralson, Harris, Hart, Heard, Henry, Houston, Irwin, Jackson, Jasper, Jeff Davis, Jefferson, Jenkins, Johnson, Jones, Lamar, Lanier, Laurens, Lee, Liberty, Lincoln, Long, Lowndes, Lumpkin, Macon, Madison, Marion, McDuffie, McIntosh, Meriwether, Miller, Mitchell, Monroe, Montgomery, Morgan, Murray, Muscogee, Newton, Oconee, Oglethorpe, Paulding, Peach, Pickens, Pierce, Pike, Polk, Pulaski, Putnam, Quitman, Rabun, Randolph, Richmond, Rockdale, Schley, Screven, Seminole, Spalding, Stephens, Stewart, Sumter, Talbot, Taliaferro, Tattnall, Taylor, Telfair, Terrell, Thomas, Tift, Toombs, Towns, Treutlen, Troup, Turner, Twiggs, Union, Upson, Walker, Walton, Ware, Warren, Washington, Wayne, Webster, Wheeler, White, Whitfield, Wilcox, Wilkes, Wilkinson, Worth

Louisiana

Catahoula, Concordia, Madison, Tensas

Mississippi

Adams, Alcorn, Amite, Attala, Calhoun, Carroll, Chickasaw, Choctaw, Claiborne, Clarke, Clay, Copiah, Covington, Forrest, Franklin, George, Greene, Grenada, Hancock, Harrison, Hinds, Holmes, Itawamba, Jackson, Jasper, Jefferson, Jefferson Davis, Jones, Kemper, Lamar, Lauderdale, Lawrence, Leake, Lee, Lincoln, Lowndes, Madison, Marion, Monroe, Montgomery, Neshoba, Newton, Noxubee, Oktibbeha, Pearl River, Perry, Pike, Pontotoc, Prentiss, Rankin, Scott, Simpson, Smith, Stone, Tippah, Tishomingo, Union, Walthall, Warren, Wayne, Webster, Wilkinson, Winston, Yazoo

North Carolina

Cherokee, Clay, Graham, Jackson, Macon

South Carolina

Abbeville, Aiken, Allendale, Anderson, Bamberg, Barnwell, Beaufort, Edgefield, Greenwood, Hampton, Jasper, McCormick, Oconee

Tennessee

Bledsoe, Bradley, Franklin, Giles, Hamilton, Hardin, Lawrence, Lincoln, Marion, McMinn

29. Section 90.615 is amended to read as follows to reflect the General Category after band reconfiguration.

§ 90.615 Individual channels available in the General Category in 806-824/851-869 MHz band.

The General Category will consist of channels 231-260 at locations farther then 110 km (68.4 miles) from the U.S./Mexico border and 140 km (87 miles) from the U.S./Canadian border.

(a) Channels 231-260 will be available only to eligible applicants in the Public Safety Category until **[Three years from effective date of Report and Order]**. These same channels will be available only to eligible applicants in the Public Safety or Critical Infrastructure Industry Categories from **[Three years from effective date of Report and Order]** until **[Five years from effective date of Report and Order]**.

(b) All entities will be eligible for licensing on Channels 231-260 after **[Five years from effective date of Report and Order]**.

30. Section 90.617 is amended to read as follows to reflect the channels available after band reconfiguration.

§ 90.617 Frequencies in the 809.750-824/854.750-869 MHz, and 896-901/935-940 MHz bands available for trunked, conventional or cellular system use in non-border areas.

Except for the counties and parishes listed in § 90.614(c), the following channels will be available at locations farther then 110 km (68.4 miles) from the U.S./Mexico border and 140 km (87 miles) from the U.S./Canadian border ("non-border areas"). The channels in the counties and parishes listed in § 90.614(c) will be available in accordance with an agreement between Southern LINC and Nextel Communications, Inc. The agreement will be approved by the Chief of the Wireless Telecommunications Bureau.

(a) The channels listed in Table 1 and paragraph (a)(1) of this section are available for non-cellular operations to eligible applicants in the Public Safety Category which consists of licensees eligible in the Public Safety Pool of subpart B of this part. 800 MHz cellular systems as defined in §

90.7 are prohibited on these channels. These frequencies are available in non-border areas. Specialized Mobile Radio Systems will not be authorized in this category. These channels are available for intercategory sharing as indicated in §90.621(e).

TABLE 1 – PUBLIC SAFETY POOL 806-816/851-861 MHZ BAND CHANNELS (70 CHANNELS)

Group No.	Channel Nos.
269	269-289-311-399-439
270	270-290-312-400-440
279	279-299-319-339-359
280	280-300-320-340-360
309	309-329-349-369-389
310	310-330-350-370-390
313	313-353-393-441-461
314	314-354-394-448-468
321	321-341-361-381-419
328	328-348-368-388-420
351	351-379-409-429-449
332	352-380-410-430-450
Single Channels	391, 392, 401, 408, 421, 428, 459, 460, 469, 470

(1) Channels numbers 1–230 are also available to eligible applicants in the Public Safety Category in non-border areas. The assignment of these channels will be done in accordance with the policies defined in the Report and Order of Gen. Docket No. 87–112 (See §90.16).

(b) Unless otherwise specified, the channels listed in Table 2 are available for non-cellular operations to applicants eligible in the Industrial/Business Pool of subpart C of this part but exclude Special Mobilized Radio Systems as defined in §90.603(c). 800 MHz cellular systems as defined in § 90.7 are prohibited on these channels. These frequencies are available in non-border areas. Specialized Mobile Radio (SMR) systems will not be authorized on these frequencies. These channels are available for inter-category sharing as indicated in § 90.621(e).

TABLE 2 – BUSINESS/INDUSTRIAL/LAND TRANSPORTATION POOL 806-816/851-861 MHZ BAND CHANNELS (100 CHANNELS)

Group No.	Channel Nos.
322	322-362-402-442-482
323	323-363-403-443-483
324	324-364-404-444-484
325	325-365-405-445-485
326	326-366-406-446-486
327	327-367-407-447-487
342	342-382-422-462-502
343	343-383-423-463-503
344	344-384-424-464-504
345	345-385-425-465-505
346	346-386-426-466-506
347	347-387-427-467-507

Single Channels	261, 271, 281, 291, 301, 262, 272, 282, 292, 302, 263, 273, 283, 293, 303, 264, 274, 284, 294, 304, 265, 275, 285, 295, 305, 266, 276, 286, 296, 306, 267, 277, 287, 297, 307, 268, 278, 288, 298, 308
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(c) The channels listed in Table 3 are available to applicants eligible in the Industrial/Business Pool of subpart C of this part but exclude Special Mobilized Radio Systems as defined in §90.603(c). These frequencies are available in non-border areas. Specialized Mobile Radio (SMR) systems will not be authorized on these frequencies. These channels are available for intercategory sharing as indicated in §90.621(e).

TABLE 3 – BUSINESS/INDUSTRIAL/LAND TRANSPORTATION POOL 896-901/935-940 MHZ BAND CHANNELS 199 CHANNELS

For multi-channel systems, channels may be grouped vertically or horizontally as they appear in the below table.

Channel Nos.

11-12-13-14-15	211-212-213-214-215
16-17-18-19-20	216-217-218-219-220
31-32-33-34-35	231-232-233-234-235
36-37-38-39-40	236-237-238-239-240
51-52-53-54-55	251-252-253-254-255
56-57-58-59-60	256-257-258-259-260
71-72-73-74-75	271-272-273-274-275
76-77-78-79-80	276-277-278-279-280
91-92-93-94-95	291-292-293-294-295
96-97-98-99-100	296-297-298-299-300
111-112-113-114-115	311-312-313-314-315
116-117-118-119-120	316-317-318-319-320
131-132-133-134-135	331-332-333-334-335
136-137-138-139-140	336-337-338-339-340
151-152-153-154-155	351-352-353-354-355
156-157-158-159-160	356-357-358-359-360
171-172-173-174-175	371-372-373-374-375
176-177-178-179-180	376-377-378-379-380
191-192-193-194-195	391-392-393-394-395
196-197-198-199-200	396-397-398-399

(d) Unless otherwise specified, the channels listed in Tables 4A and 4B are available for non-cellular operations only to eligibles in the SMR category – which consists of Specialized Mobile Radio (SMR) stations and eligible end users. 800 MHz cellular systems as defined in § 90.7 are prohibited on these channels. These frequencies are available in non-border areas. The spectrum blocks listed in Table 4A are available for EA-based services (as defined by § 90.681 of this chapter) prior to [Effective date of Report and Order]. No new EA-based services will be authorized after

[Effective date of *Report and Order*]. EA-based licensees who operate non-cellular systems prior to [Effective date of *Report and Order*] may choose to remain on these channels in the non-cellular portion of the 800 MHz band (as defined in § 90.614 of this chapter.) These licensees may continue to operate non-cellular systems and will be grandfathered indefinitely. The channels listed in Table 4B will be available for site-base licensing after [Effective date of *Report and Order*] in any Economic Area where no EA-based licensee is authorized for these channels.

TABLE 4A – EA-BASED SMR CATEGORY 806-816/851-861 MHZ BAND CHANNELS FOR CELLULAR OPERATIONS AVAILABLE PRIOR TO [Effective date of *Report and Order*] (80 CHANNELS.)

Spectrum Block	Channel Nos.
G	311-351-391-431-471
H	312-352-392-432-472
I	313-353-393-433-473
J	314-354-394-434-474
K	315-355-395-435-475
L	316-356-396-436-476
M	317-357-397-437-477
N	318-358-398-438-478
O	331-371-411-451-491
P	332-372-412-452-492
Q	333-373-413-453-493
R	334-374-414-454-494
S	335-375-415-455-495
T	336-376-416-456-496
U	337-377-417-457-497
V	338-378-418-458-498

TABLE 4B – SMR CATEGORY 806-816/851-861 MHZ BAND CHANNELS FOR CELLULAR OPERATIONS AVAILABLE FOR SITE-BASED LICENSING AFTER [Effective date of *Report and Order*] (80 CHANNELS.)

Group No.	Channel Nos.
315	315-355-395-435-475
316	316-356-396-436-476
317	317-357-397-437-477
318	318-358-398-438-478
331	331-371-411-451-491
332	332-372-412-452-492
333	333-373-413-453-493
334	334-374-414-454-494
335	335-375-415-455-495
336	336-376-416-456-496
337	337-377-417-457-497
338	338-378-418-458-498
Single Channels	431, 432, 433, 434, 471, 472, 473, 474, 479, 480, 481, 488, 489, 490, 499, 500, 501, 508, 509, 510

(e) The Channels listed in § 90.614(b) and (c) of this chapter are available to eligibles in the SMR category – which consists of Specialized Mobile Radio (SMR) stations and eligible end users. ESMR licensees which employ an 800 MHz cellular system as defined in § 90.7 are permitted to operate on these channels in non-border areas. ESMR licensees authorized prior to **[Effective date of Report and Order]** may continue to operate, if they so chose, on the channels listed in Table 5. These licensees will be grandfathered indefinitely.

TABLE 5 – ESMR CATEGORY 816-821/861-866 MHZ BAND CHANNELS FOR CELLULAR OPERATIONS IN NON-BORDER AREAS AVAILABLE PRIOR TO **[Effective date of Report and Order]**. (200 CHANNELS)

Spectrum Block	Channel Nos.
A	511 through 530
B	531 through 590
C	591 through 710

(f) The channels listed in Tables 6 are available for operations only to eligibles in the SMR category – which consists of Specialized Mobile Radio (SMR) stations and eligible end users. These frequencies are available in non-border areas. The spectrum blocks listed below are available for EA-based services according to § 90.681.

TABLE 6 – SMR CATEGORY 896-901/935-940 MHZ BAND CHANNELS (200 CHANNELS)

Block	Channel Nos.
A	1-2-3-4-5-6-7-8-9-10
B	21-22-23-24-25-26-27-28-29-30
C	41-42-43-44-45-46-47-48-49-50
D	61-62-63-64-65-66-67-68-69-70
E	81-82-83-84-85-86-87-88-89-90
F	101-102-103-104-105-106-107-108-109-110
G	121-122-123-124-125-126-127-128-129-130
H	141-142-143-144-145-146-147-148-149-150
I	161-162-163-164-165-166-167-168-169-170
J	181-182-183-184-185-186-187-188-189-190
K	201-202-203-204-205-206-207-208-209-210
L	221-222-223-224-225-226-227-228-229-230
M	241-242-243-244-245-246-247-248-249-250
N	261-262-263-264-265-266-267-268-269-270
O	281-282-283-284-285-286-287-288-289-290
P	301-302-303-304-305-306-307-308-309-310
Q	321-322-323-324-325-326-327-328-329-330
R	341-342-343-344-345-346-347-348-349-350
S	361-362-363-364-365-366-367-368-369-370
T	381-382-383-384-385-386-387-388-389-390

(g) Channels below 470 listed in Tables 2 and 4B which are vacated by ESMR licensees after **[Effective date of Report and Order]** are available only to eligible applicants in the Public Safety

Category until **[Three years from effective date of Report and Order]**. These same channels will be available only to eligible applicants in the Public Safety or Critical Infrastructure Industry Categories from **[Three years from effective date of Report and Order]** until **[Five years from effective date of Report and Order]**. After **[Five years from effective date of Report and Order]** these channels will revert back to their original pool categories.

(h) Channels below 470 listed in Tables 2 and 4B which are vacated by licensees relocating to Channels 511-550 after **[Effective date of Report and Order]** are available only to eligible applicants in the Public Safety Category until **[Three years from effective date of Report and Order]**. These same channels will be available only to eligible applicants in the Public Safety or Critical Infrastructure Industry Categories from **[Three years from effective date of Report and Order]** until **[Five years from effective date of Report and Order]**. After **[Five years from effective date of Report and Order]** these channels will revert back to their original pool categories.

(i) Special Mobilized Radio Systems licensees who operate non-cellular systems on any of the public safety channels listed in Table 1 prior to **[Effective date of Report and Order]** are grandfathered and may continue to operate on these channels indefinitely. These grandfathered licensees will be prohibited from operating 800 MHz cellular systems as defined in § 90.7. Site-based licensees who are grandfathered on any of the public safety channels listed in Table 1 may modify their license only if they obtain concurrence from a certified public safety coordinator in accordance with § 90.175(c). Grandfathered EA-based licensees, however, are exempt from any of the frequency coordination requirements of § 90.175 as long as their operations remain within the Economic Area defined by their license in accordance with the requirements of § 90.683(a).

(j) Licensees operating ESMR systems in the non-cellular portion of the band (as defined in § 90.614) prior to **[Effective date of Report and Order]** may elect to continue operating in the non-cellular portion of the band. These licensees will be permitted to continue operating 800 MHz cellular systems (as defined in § 90.7) in the non-cellular portion of the band. These licensees will be grandfathered indefinitely subject to the provisions of §§ 90.673, 90.674 and 90.675.

(k) Licensees may operate systems other than 800 MHz cellular systems (as defined in § 90.7) on Channels 511-550 at any location vacated by an EA-based SMR licensee. For operations on these channels, unacceptable interference (as defined in §§ 22.970 & 90.672) will be deemed to occur only at sites where the following median desired signals are received (rather than those specified in §§ 22.970(a)(1)(i) & 90.672(a)(1)(i)). The minimum required median desired signal, as measured at the R.F. input of the receiver, will be as follows:

(1) Mobile units:

(i) For channels 511 to 524 – the minimum median desired signal levels specified in §§ 22.970(a)(1)(i) & 90.672(a)(1)(i) shall apply;

(ii) For channels 524 to 534 – the minimum median desired signal level shall increase linearly from the values specified in §§ 22.970(a)(1)(i) & 90.672(a)(1)(i) to -70 dBm;

(iii) For channels 534 to 550 – the minimum median desired signal level shall increase linearly from -70 dBm to -65 dBm.

(2) Portable units:

(i) For channels 511 to 524 – the minimum median desired signal levels specified in §§ 22.970(a)(1)(i) & 90.672(a)(1)(i) shall apply;

(ii) For channels 524 to 530 – the minimum median desired signal level shall increase linearly from the values specified in §§ 22.970(a)(1)(i) & 90.672(a)(1)(i) to -80 dBm;

(iii) For channels 530 to 534 – the minimum median desired signal level shall increase linearly from -80 dBm to -70 dBm;

(iv) For channels 534 to 550 – the minimum median desired signal level shall increase linearly from -70 dBm to -65 dBm.

31. Section 90.619 is amended to read as follows.

§ 90.619 Operations within the U.S./Mexico and U.S./Canada border areas.

(a) *Use of Frequencies in 800 MHz Band in Mexico Border Region.* All operations in the 806-824/851-869 MHz band within 110 km (68.4 miles) of the U.S./Mexico border ("Mexico border region") shall be in accordance with international agreements between the U.S. and Mexico. Channels 231-710 are offset 12.5 kHz lower in frequency than those specified in the table in §90.613. Stations located on Mt. Lemmon, serving the Tucson, AZ area, will only be authorized offset frequencies.

(b) *Use of Frequencies in 900 MHz Band in Mexico Border Region.* All operations in the 896-901/935-940 MHz band within the Mexico border region shall be in accordance with international agreements between the U.S. and Mexico.

(1) The channels listed in Table 1 below are available to applicants eligible in the Industrial/Business Pool of subpart C of this part but exclude Special Mobilized Radio Systems as defined in §90.603(c). These frequencies are available within the Mexico border region. Specialized Mobile Radio (SMR) systems will not be authorized on these frequencies.

TABLE 1 – UNITED STATES/MEXICO BORDER AREA, BUSINESS/INDUSTRIAL/LAND TRANSPORTATION POOL 896-901/935-940 MHz BAND (199 CHANNELS)

For multi-channel systems, channels may be grouped vertically or horizontally as they appear in the following table. Channels numbered above 200 may be used only subject to the power flux density limits stated in paragraph (a)(2) of this section:

Channels	Freqs.
11-12-13-14-15	131-132-133-134-135
16-17-18-19-20	136-137-138-139-140
31-32-33-34-35	231-232-233-234-235
36-37-38-39-40	236-237-238-239-240
51-52-53-54-55	171-172-173-174-175
56-57-58-59-60	176-177-178-179-180
71-72-73-74-75	271-272-273-274-275
76-77-78-79-80	276-277-278-279-280
91-92-93-94-95	211-212-213-214-215
96-97-98-99-100	216-217-218-219-220
111-112-113-114-115	311-312-313-314-315
116-117-118-119-120	316-317-318-319-320
151-152-153-154-155	351-352-353-354-355
156-157-158-159-160	356-357-358-359-360
191-192-193-194-195	391-392-393-394-395
196-197-198-199-200	396-397-398-399

251-252-253-254-255	331-332-333-334-335
256-257-258-259-260	336-337-338-339-340
291-292-293-294-295	371-372-373-374-375
296-297-298-299-300	376-377-378-379-380

(2) The channels listed in Table 2 below are available for operations only to eligibles in the SMR category – which consists of Specialized Mobile Radio (SMR) stations and eligible end users. These frequencies are available in the Mexico border region. The spectrum blocks listed below are available for EA-based services according to § 90.681.

TABLE 2 – UNITED STATES-MEXICO BORDER AREA, SMR CATEGORY 896-901/935-940 MHZ BAND (200 CHANNELS)

Block	Channel Nos.
Channels numbered above 200 may only be used subject to the power flux density limits at or beyond the Mexico border as stated in paragraph (4) of this section.	
A	1-2-3-4-5-6-7-8-9-10
B	21-22-23-24-25-26-27-28-29-30
C	41-42-43-44-45-46-47-48-49-50
D	61-62-63-64-65-66-67-68-69-70
E	81-82-83-84-85-86-87-88-89-90
F	101-102-103-104-105-106-107-108-109-110
G	121-122-123-124-125-126-127-128-129-130
H	141-142-143-144-145-146-147-148-149-150
I	161-162-163-164-165-166-167-168-169-170
J	181-182-183-184-185-186-187-188-189-190
K	201-202-203-204-205-206-207-208-209-210
L	221-222-223-224-225-226-227-228-229-230
M	241-242-243-244-245-246-247-248-249-250
N	261-262-263-264-265-266-267-268-269-270
O	281-282-283-284-285-286-287-288-289-290
P	301-302-303-304-305-306-307-308-309-310
Q	321-322-323-324-325-326-327-328-329-330
R	341-342-343-344-345-346-347-348-349-350
S	361-362-363-364-365-366-367-368-369-370
T	381-382-383-384-385-386-387-388-389-390

(3) The specific channels that are available for licensing in the band 896–901/935–940 MHz within the Mexico border region are subject to Effective Radiated Power (ERP) and Antenna Height limitations as indicated in Table 3 below.

TABLE 3 – LIMITS OF EFFECTIVE RADIATED POWER (ERP) CORRESPONDING TO ANTENNA HEIGHTS OF BASE STATIONS IN THE 896-901/935-940 MHZ BANDS WITHIN 110 KILOMETERS (68.4 MILES) OF THE MEXICAN BORDER

Antenna height above mean sea level	ERP
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Meters	Feet	Watts (maximum)
0-503.....	0-1650.....	500
504-609.....	1651-2000.....	350
610-762.....	2001-2500.....	200
763-914.....	2501-3000.....	140
915-1066.....	3001-3500.....	100
1067-1219.....	3501-4000.....	75
1220-1371.....	4001-4500.....	70
1372-1523.....	4501-5000.....	65
Above 1523.....	Above 5000.....	5

(4) All channels in the 896–901/935–940 MHz band are available for assignment to U.S. stations within the Mexico border region if the maximum power flux density (pfd) of the station's transmitted signal at any point at or beyond the border does not exceed $-107 \text{ dB(W/m}^2\text{)}$. The spreading loss must be calculated using the free space formula taking into account any antenna discrimination in the direction of the border. Authorizations for stations using channels allotted to Mexico on a primary basis will be secondary to Mexican operations and conditioned to require that licensees take immediate action to eliminate any harmful interference resulting from the station's transmitted signal exceeding $-107 \text{ dB(W/m}^2\text{)}$.

(c) *Use of 800 MHz Band in Canada Border Region.* All operations in the 806-824/851-869 MHz band within 140 km (87 miles) of the U.S./Canada border ("Canada border region") shall be in accordance with international agreements between the U.S. and Canada.

(d) *Use of 900 MHz Band in Canada Border Region.* All operations in the 896–901/935–940 MHz band within the Canada border region shall be in accordance with international agreements between the U.S. and Canada. The following criteria shall govern the assignment of frequency pairs (channels) in the 896–901/935–940 MHz band for stations located in the U.S./Canada border area. They are available for assignments for conventional or trunked systems in accordance with applicable sections of this subpart. * * *

32. Paragraphs (a), (b), (c), (e), (f), (g) and (h) of Section 90.621 are amended to reflect the combining of the Business and Industrial/Land Transportation categories into one pool; to allow CMRS operations on 900 MHz PLMR channels; to allow 900 MHz PLMR licensees to transfer their licenses to CMRS licensees; to reflect the new channel numbers after band reconfiguration and to remove all references to spectrum blocks D through F1 which will no longer exist after band reconfiguration.

§ 90.621 Selection and assignment of frequencies.

(a) Applicants for frequencies in the Public Safety and Business/Industrial/Land Transportation Categories must specify on the application the frequencies on which the proposed system will operate pursuant to a recommendation by the applicable frequency coordinator. Applicants for frequencies in the SMR Category must request specific frequencies by including in their applications the frequencies requested.

* * * * *

(b) Stations authorized on frequencies listed in this subpart, except for those stations authorized pursuant to paragraph (g) of this section and EA-based and MTA-based SMR systems, will be assigned frequencies solely on the basis of fixed distance separation criteria. The separation between

co-channel systems will be a minimum of 113 km (70 mi) with one exception. For incumbent licensees in Channel Blocks G through V, that have received the consent of all affected parties or a certified frequency coordinator to utilize an 18 dB μ V/m signal strength interference contour (see §90.693), the separation between co-channel systems will be a minimum of 173 km (107 mi). The following exceptions to these separations shall apply:

(1) Except as indicated in paragraph (b)(4) of this section, no station in Channel Blocks A through V shall be less than 169 km (105 mi) distant from a co-channel station that has been granted channel exclusivity and authorized 1 kW ERP on any of the following mountaintop sites: Santiago Peak, Sierra Peak, Mount Lukens, Mount Wilson (California). Except as indicated in paragraph (b)(4) of this section, no incumbent licensee in Channel Blocks G through V that has received the consent of all affected parties or a certified frequency coordinator to utilize an 18 dB μ V/m signal strength interference contour shall be less than 229 km (142 mi) distant from a co-channel station that has been granted channel exclusivity and authorized 1 kW ERP on any of the following mountaintop sites: Santiago Peak, Sierra Peak, Mount Lukens, Mount Wilson (California).

* * * * *

(3) Except as indicated in paragraph (b)(4) of this section, stations in Channel Blocks A through V that have been granted channel exclusivity and are located in the State of Washington at the locations listed below shall be separated from co-channel stations by a minimum of 169 km (105 mi). Except as indicated in paragraph (b)(4) of this section, incumbent licensees in Channel Blocks G through V that have received the consent of all affected parties or a certified frequency coordinator to utilize an 18 dB μ V/m signal strength interference contour, have been granted channel exclusivity and are located in the State of Washington at the locations listed below shall be separated from co-channel stations by a minimum of 229 km (142 mi). Locations within one mile of the geographical coordinates listed in the table below will be considered to be at that site.

Note: Coordinates are referenced to North American Datum 1983 (NAD83).

Site Name	North Latitude	West Longitude
Mount Constitution.....	48° 40' 47.4"	122° 50' 28.7"
Lyman Mountain.....	48° 35' 41.4"	122° 09' 39.6"
Cultus Mountain.....	48° 25' 30.4"	122° 08' 58.5"
Gunsite Ridge.....	48° 03' 22.4"	121° 51' 41.5"
Gold Mountain.....	47° 32' 51.3"	122° 46' 56.5"
Buck Mountain.....	47° 47' 05.3"	122° 59' 34.6"
Cougar Mountain.....	47° 32' 39.4"	122° 06' 34.4"
Squak Mountain.....	47° 30' 14.4"	122° 03' 34.4"
Tiger Mountain.....	47° 30' 13.4"	121° 58' 32.4"
Devils Mountain.....	48° 21' 52.4"	122° 16' 06.6"
McDonald Mountain.....	47° 20' 11.3"	122° 51' 30.5"
Maynard Hill.....	48° 00' 58.3"	122° 55' 35.6"
North Mountain.....	47° 19' 07.3"	123° 20' 48.6"
Green Mountain.....	47° 33' 40.3"	122° 48' 31.5"
Capitol Peak.....	46° 58' 21.3"	123° 08' 21.5"
Rattlesnake Mountain.....	47° 28' 09.4"	121° 49' 17.4"
Three Sisters Mountain.....	47° 07' 19.4"	121° 53' 34.4"
Grass Mountain.....	47° 12' 14.1"	121° 47' 42.4"
Spar Pole Hill.....	47° 02' 51.4"	122° 08' 39.4"

* * * * *

(c) Conventional systems authorized on frequencies in the Public Safety (except for those systems that have participated in a formal regional planning process as described in §90.16) and Business/Industrial/Land Transportation categories which have not met the loading levels necessary for channel exclusivity will not be afforded co-channel protection.

* * * * *

(e) Frequencies in the 809–817/854–862 MHz bands listed as available for eligibles in the Public Safety and Business/Industrial/Land Transportation Categories are available for inter-category sharing under the following conditions:

(1) Channels in the Public Safety and Business/Industrial/Land Transportation categories will be available to eligible applicants in those categories only if there are no frequencies in their own category and no public safety systems are authorized on those channels under consideration to be shared.

(2) Notwithstanding paragraph (e)(5) of this section, licensees of channels in the Business/Industrial/Land Transportation category may request a modification of the license, see §1.947 of this part, to authorize use of the channels for commercial operation. The licensee may also, at the same time or thereafter, seek authorization to transfer or assign the license, see §1.948 of this part, to any person eligible for licensing in the General or SMR categories. Applications submitted pursuant to this paragraph must be filed in accordance with the rules governing other applications for commercial channels, and will be processed in accordance with those rules. Grant of requests submitted pursuant to this paragraph is subject to the following conditions:

(i) A licensee that modifies its license to authorize commercial operations will not be authorized to obtain additional 800 MHz Business/Industrial/Land Transportation category channels for sites located within 113 km (70 mi.) of the station for which the license was modified, for a period of one year from the date the license is modified. This provision applies to the licensee, its controlling interests and their affiliates, as defined in §1.2110 of this chapter.

(ii) With respect to licenses the initial application for which was filed on or after November 9, 2000, requests submitted pursuant to paragraph (e)(2) of this section may not be filed until five years after the date of the initial license grant. In the case of a license that is modified on or after November 9, 2000 to add 800 MHz Business/Industrial/Land Transportation frequencies or to add or relocate base stations that expand the licensee's the interference contour, requests submitted pursuant to paragraph (e)(2) of this section for these frequencies or base stations may not be filed until five years after such modification.

* * * * *

(f) Licensees of channels in the Business/Industrial/Land Transportation Categories in the 896–901/935–940 MHz bands may request a modification of the license, *see* § 1.947 of this part, to authorize use of the channels for commercial operation. The licensee may also, at the same time, or thereafter, seek authorization to transfer or assign the license, *see* § 1.948 of this part, to any person eligible for licensing in the General or SMR categories. Applications submitted pursuant to this paragraph must be filed in accordance with the rules governing other applications for commercial channels, and will be processed in accordance with those rules.

(g) Applications for Public Safety systems (both trunked and conventional) in the 806–809/851–854 MHz bands will be assigned and protected based on the criteria established in the appropriate

regional plan. See §90.16 and the Report and Order in General Docket 87-112.

(h) Channel numbers 511-520, 551-560, 591-600, 631-640, and 671-680 are allocated for Basic Exchange Telecommunications Radio Service as described in § 22.757 of this chapter. NOTE: the FCC has proposed to remove these channels from the rural radiotelephone service in WT Docket No. 03-103 (FCC 03-95) released April 28, 2003 (68 FR 4403) which is pending.

* * * * *

33. The text in paragraph (d) of Section 90.629 is removed because the Business and Industrial/Transportation categories have been combined into one pool.

§ 90.629 Extended implementation period.

* * * * *

(d) [Reserved]

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34. Paragraph (b) of Section 90.631 is amended to reflect the interleaved portion of the 800 MHz band after band reconfiguration and to remove references to Spectrum Block D which will no longer exist after band reconfiguration.

§ 90.631 Trunked systems loading, construction and authorization requirements.

* * * * *

(b) Each applicant for a non-SMR trunked system must certify that a minimum of seventy (70) mobiles for each channel authorized will be placed into operation within five (5) years of the initial license grant. Except for SMR systems licensed in the 809-816/854-861 MHz band and as indicated in paragraph (i) of this section, if at the end of five (5) years a trunked system is not loaded to the prescribed levels and all channels in the licensee's category are assigned in the system's geographic area, authorizations for trunked channels not loaded to seventy (70) mobile stations cancels automatically at a rate that allows the licensee to retain one channel for every one hundred (100) mobiles loaded, plus one additional channel. If a trunked system has channels from more than one category, General Category channels are the first channels considered to cancel automatically. All non-SMR licensees initially authorized before June 1, 1993, that are within their original license term, or SMR licensees that are within the term of a two-year authorization granted in accordance with paragraph (i) of this section, are subject to this condition. A licensee that has authorized channels cancelled due to failure to meet the above loading requirements will not be authorized additional channels to expand that same system for a period of six months from the date of cancellation.

* * * * *

35. Paragraph (g) of Section 90.645 is amended to reflect the interleaved portion of the 800 MHz band after band reconfiguration.

§ 90.645 Permissible operations.

* * * * *

(g) Up to five (5) contiguous 809-816/854-861 band channels as listed in §§90.615, 90.617, and 90.619 may be authorized after justification for systems requiring more than the normal single channel

bandwidth. If necessary, licensees may trade channels amongst themselves in order to obtain contiguous frequencies. Notification of such proposed exchanges shall be made to the appropriate frequency coordinator(s) and to the Commission by filing an application for license modification.

* * * * *

36. The following sections are added immediately after the text of Section 90.671:

PROCEDURES AND PROCESS - UNACCEPTABLE INTERFERENCE

§ 90.672 Unacceptable interference to non-cellular 800 MHz licensees from ESMR or Part 22 Cellular Radiotelephone systems.

(a) *Definition.* Except as provided in 47 C.F.R. §90.617(k), unacceptable interference to non-cellular licensees in the 800 MHz band will be deemed to occur when the below conditions are met:

(1) A transceiver at a site at which interference is encountered:

(i) Is in good repair and operating condition, and is receiving:

(A) A median desired signal of -104 dBm or higher, as measured at the R.F. input of the receiver of a mobile unit; or

(B) A median desired signal of -101 dBm or higher, as measured at the R.F. input of the receiver of a portable *i.e.* hand-held unit; and, either

(ii) Is a voice transceiver:

(A) with manufacturer published performance specifications for the receiver section of the transceiver equal to, or exceeding, the minimum standards set out in Section (b), below; and;

(B) Receiving an undesired signal or signals which cause the measured Carrier to Noise plus Interference ($C/(I+N)$) ratio of the receiver section of said transceiver to be less than 20 dB, or,

(iii) Is a non-voice transceiver receiving an undesired signal or signals which cause the measured bit error rate (BER) (or some comparable specification) of the receiver section of said transceiver to be more than the value reasonably designated by the manufacturer.

(2) Provided, however, that if the receiver section of the mobile or portable voice transceiver does not conform to the standards set out in paragraph (b), below, then that transceiver shall be deemed subject to unacceptable interference only at sites where the median desired signal satisfies the applicable threshold measured signal power in paragraphs (a)(1)(i) after an upward adjustment to account for the difference in receiver section performance. The upward adjustment shall be equal to the increase in the desired signal required to restore the receiver section of the subject transceiver to the 20 dB $C/(I+N)$ ratio of paragraph (a)(1)(iv)(a) above. The adjusted threshold levels shall then define the minimum measured signal power(s) in lieu of paragraphs (a) (1) (i) at which the licensee using such non-compliant transceiver is entitled to interference protection.

(b) *Minimum Receiver Requirements.* Voice transceivers capable of operating in the 806-824 MHz portion of the 800 MHz band shall have the following minimum performance specifications in order for the system in which such transceivers are used to claim entitlement to full protection against

unacceptable interference. (See paragraph (a) (2) above.)

(1) Voice units intended for mobile use: 75 dB intermodulation rejection ratio; 75 dB adjacent channel rejection ratio; -116 dBm reference sensitivity.

(2) Voice units intended for portable use: 70 dB intermodulation rejection ratio; 70 dB adjacent channel rejection ratio; -116 dBm reference sensitivity.

§ 90.673 Obligation to abate unacceptable interference.

(a) *Strict Responsibility.* Any licensee who, knowingly or unknowingly, directly or indirectly, causes or contributes to causing unacceptable interference to a non-cellular licensee in the 800 MHz band, as defined in this chapter, shall be strictly accountable to abate the interference, with full cooperation and utmost diligence, in the shortest time practicable. Interfering licensees shall consider all feasible interference abatement measures, including, but not limited to, the remedies specified in the interference resolution procedures set forth in this chapter. This strict responsibility obligation applies to all forms of interference, including out-of-band emissions and intermodulation

(b) *Joint and Several Responsibility.* If two or more licensees knowingly or unknowingly, directly or indirectly, cause or contribute to causing unacceptable interference to a non-cellular licensee in the 800 MHz band, as defined in this chapter, such licensees shall be jointly and severally responsible for abating interference, with full cooperation and utmost diligence, in the shortest practicable time. This joint and several responsibility rule requires interfering licensees to consider all feasible interference abatement measures, including, but not limited to, the remedies specified in the interference resolution procedures set forth in this chapter. This joint and several responsibility rule applies to all forms of interference, including out-of-band emissions and intermodulation

(1) This joint and several responsibility rule requires interfering licensees to consider all feasible interference abatement measures, including, but not limited to, the remedies specified in the interference resolution procedures set forth in § 90.674(c) of this chapter. This joint and several responsibility rule applies to all forms of interference, including out-of-band emissions and intermodulation.

(2) Any licensee that can show that its signal does not directly or indirectly, cause or contribute to causing unacceptable interference to a non-cellular licensee in the 800 MHz band, as defined in this chapter, shall not be held responsible for resolving unacceptable interference. Notwithstanding, any licensee that receives an interference complaint from a public safety/CII licensee shall respond to such complaint consistent with the interference resolution procedures set forth in this chapter.

§ 90.674 Interference resolution procedures before, during and after band reconfiguration.

(a) *Initial Notification.* Any non-cellular licensee operating in the 806-824/851-869 MHz band who reasonably believes it is receiving harmful interference, as described in § 90.672, shall provide an initial notification of the interference incident. This initial notification of an interference incident shall be sent to all Part 22 Cellular Radiotelephone licensees and ESMR licensees who operate cellular base stations ("cell sites") within 1,524 meters (5,000 feet) of the interference incident.

(1) The initial notification of interference shall include the following information on interference:

(i) the specific geographical location where the interference occurs, and the time or times at which the interference occurred or is occurring;

(ii) a description of its scope and severity, including its source, if known;

(iii) the relevant Commission licensing information of the party suffering the interference;
and

(iv) a single point of contact for the party suffering the interference.

(2) ESMR licensees, in conjunction with Part 22 Cellular Radiotelephone licensees, shall establish an electronic means of receiving the initial notification described in subsection (a)(1) above. The electronic system must be designed so that all appropriate 800 MHz ESMR and Part 22 Cellular Radiotelephone licensees can be contacted about the interference incident with a single notification. The electronic system for receipt of initial notification of interference complaints must be operating no later than **[Thirty days after effective date of Report and Order]**.

(3) ESMR licensees must respond to the initial notification described in paragraph (a)(1) of this section, as soon as possible and no later than 24 hours of receipt of notification from a public safety/CII licensee. This response time may be extended to 48 hours after receipt from other non-cellular licensees provided affected communications on these systems are not safety related.

(b) *Interference Analysis.* ESMR licensees who receive an initial notification described in paragraph (a) above – shall perform a timely analysis of the interference to identify the possible source. Immediate on-site visits may be conducted when necessary to complete timely analysis. Interference analysis must be completed and corrective action initiated within 48 hours of the initial complaint from a public safety/CII licensee. This response time may be extended to 96 hours after the initial complaint from other non-cellular licensees provided affected communications on these systems are not safety related. Corrective action may be delayed if the affected licensee agrees in writing (which may be, but is not required to be, recorded via e-mail or other electronic means) to a longer period.

(c) *Mitigation Steps.* (1) All ESMR and Part 22 Cellular Radiotelephone licensees who are responsible for causing unacceptable interference shall take all affirmative measures to resolve such interference. ESMR licensees found to contribute to harmful interference, as defined in § 90.672, shall resolve such interference in the shortest time practicable. ESMR and Part 22 Cellular Radiotelephone licensees must provide all necessary test apparatus and technical personnel skilled in the operation of such equipment as may be necessary to determine the most appropriate means of timely eliminating the interference. However, the means whereby interference is abated or the cell parameters that may need to be adjusted is left to the discretion of involved ESMR and/or Part 22 Cellular Radiotelephone licensees, whose affirmative measures may include, but not be limited to, the following techniques:

- (i) increasing the desired power of the public safety signal;
- (ii) decreasing the power of the ESMR and/or Part 22 Cellular Radiotelephone signal;
- (iii) modifying the ESMR and/or Part 22 Cellular Radiotelephone systems antenna height;
- (iv) modifying the ESMR and/or Part 22 Cellular Radiotelephone system antenna characteristics;
- (iv) incorporating filters into ESMR and/or Part 22 Cellular Radiotelephone system transmission equipment;
- (v) permanently changing ESMR and/or Part 22 Cellular Radiotelephone system

frequencies; and

(vi) supplying interference-resistant receivers to the affected public safety licensee(s). If this technique is used, in all circumstances, the ESMR and/or Part 22 Cellular Radiotelephone licensees shall be responsible for all costs thereof.

(2) Whenever short-term interference abatement measures prove inadequate, the affected licensee shall, consistent with but not compromising safety, make all necessary concessions to accepting interference until a longer-term remedy can be implemented.

(3) *Discontinuing operations when clear and imminent danger exists.* When a public safety licensee determines that a continuing presence of interference constitutes a clear and imminent danger to life or property, the licensee causing the interference must discontinue the associated operation immediately, until a remedy can be identified and applied. The determination that a continuing presence exists that constitutes a clear and imminent danger to life or property, must be made by written statement that:

(i) is in the form of a declaration, notarized affidavit, or statement under penalty or perjury, from an officer or executive of the affected public safety licensee;

(ii) thoroughly describes the basis of the claim of clear and imminent danger;

(iii) was formulated on the basis of either personal knowledge or belief after due diligence;

(iv) is not proffered by a contractor or other third party; and

(v) has been approved by the Chief of the Wireless Telecommunication Bureau or other designated Commission official. Prior to the authorized official making a determination that a clear and imminent danger exists, the associated written statement must be served by hand-delivery or receipted fax on the applicable offending licensee, with a copy transmitted by the fastest available means to the Washington, D.C. office of the Commission's Wireless Telecommunications Bureau.

§ 90.675 Information exchange.

(a) *Prior Coordination.* Public safety/CII licensees may notify an ESMR or Part 22 Cellular Radiotelephone licensee that they wish to receive prior notification of the activation or modification of ESMR or Part 22 Cellular Radiotelephone cell sites in their area. Thereafter, the ESMR or Part 22 Cellular Radiotelephone licensee must provide the following information to the public safety/CII licensee at least 10 business days before a new cell site is activated or an existing cell site is modified:

(1) location;

(2) effective radiated power;

(3) antenna height;

(4) channels available for use.

(b) *Purpose of Prior Coordination.* The coordination of cell sites is for informational purposes only: public safety/CII licensees are not afforded the right to accept or reject the activation of a

proposed cell or to unilaterally require changes in its operating parameters. The principal purposes of notification are to: (a) allow a public safety/CII licensee to advise the ESMR or Part 22 Cellular Radiotelephone licensee whether it believes a proposed cell will generate unacceptable interference; (b) permit ESMR or Part 22 Cellular Radiotelephone licensees to make voluntary changes in cell parameters when a public safety licensee alerts them to possible interference; and (c) rapidly identify the source if interference is encountered when the cell is activated.

(c) *Public Safety Information Exchange.* (1) Upon request by an ESMR or Part 22 Cellular Radiotelephone licensee, public safety/CII licensees who operate radio systems in the 806-824/851-869 MHz shall provide the operating parameters of their radio system to the ESMR or Part 22 Cellular Radiotelephone licensee.

(2) Public safety licensees who perform the information exchange described above must notify the appropriate ESMR and Part 22 Cellular Radiotelephone licensees prior to any technical changes to their radio system.

§ 90.676 Transition administrator for reconfiguration of the 806-824/851-869 MHz band in order to separate cellular systems from non-cellular systems.

The Transition Administrator will be an independent party with no connection to any 800 MHz licensee; and will be selected by a committee representative of 800 MHz licensees. The Transition Administrator will serve both a ministerial role and a function similar to a special master in a judicial proceeding.

(a) The duties of the Transition Administrator will include, but not be limited to:

(1) Obtaining estimates from licensees regarding the cost of reconfiguring their systems and ensuring that estimates contain a firm work schedule. The Transition Administrator will retain copies of all estimates and make them available to the Commission on request.

(2) Mediating disputes regarding cost estimates for reconfiguring a system.

(3) Issuing the Draw Certificate to authorize and instruct the Letter of Credit Trustee to draw down on the Letter of Credit to pay relocation costs in connection with reconfiguring a licensee's system.

(4) Establishing a relocation schedule on a NPSPAC region-by-region basis, prioritizing the regions on the basis of population. However, should a given region be encountering unusually severe amounts of unacceptable interference, that region may be moved up in priority. Any party disputing such a change in priority may refer the matter to the Chief of the Public Safety and Critical Infrastructure Division, who hereby is delegated the authority to resolve such disputes. The Transition Administrator may direct that adjoining regions be reconfigured simultaneously when conditions so require.

(5) The Transition Administrator will coordinate relocation of a NPSPAC Region's NPSPAC channels with the relevant Regional Planning Committee(s) prior to commencing band reconfiguration in a NPSPAC Region.

(b) Once band reconfiguration commences in a given NPSPAC Region, the Transition Administrator will;

(1) Monitor the retuning schedule and resolve any schedule delays or refer same to the Public

Safety and Critical Infrastructure Division for resolution;

(2) Coordinate with adjoining NPSPAC Regions to ensure that interference is not being caused to their existing facilities from relocated stations;

(3) Provide quarterly progress reports to the Commission in such detail as the Commission may require and include, with such reports, certifications by Nextel and the relevant licensees that relocation has been completed and that both parties agree on the amount received from the letter of credit proceeds in connection with relocation of the licensees' facilities. The report shall include description of any disputes that have arisen and the manner in which they were resolved. These quarterly reports need not be audited;

(4) Provide to the Public Safety and Critical Infrastructure Division, on the anniversary of [Effective date of *Report and Order*], an audited statement of relocation funds expended to date, including salaries and expenses of Transition Administrator;

(5) Facilitate resolution of disputes by mediation; or referral of the parties to alternative dispute resolution services;

(c) The Transition Administrator may not serve as the repository of funds used in band reconfiguration, excepting such sums as Nextel may pay for the Transition Administrator's services. Moreover, the Transition Administrator will not be certified by the Commission as a frequency coordinator.

§ 90.677 Reconfiguration of the 806-824/851-869 MHz band in order to separate cellular systems from non-cellular systems.

In order to facilitate reconfiguration of the 806-824/851-869 MHz band ("800 MHz band") to separate cellular systems from non-cellular systems, Nextel Communications, Inc. (Nextel) may relocate incumbents within the 800 MHz band by providing "comparable facilities." For the limited purpose of band reconfiguration, the provisions of § 90.157 shall not apply and inter-category sharing will be permitted under all circumstances. Such relocation is subject to the following provisions:

(a) Within thirty days of Commission approval of the Transition Administrator, the Transition Administrator described in § 90.676 will provide the Commission with a schedule detailing when band reconfiguration shall commence for each NPSPAC Region. The plan should also detail – by NPSPAC Region – which relocation option each non-Nextel ESMR licensee has chosen. The Chief of the Public Safety and Critical Infrastructure Division of the Wireless Telecommunications Bureau will finalize and approve such a plan. The schedule shall provide for completion of band reconfiguration in no more than thirty-six months following release of a Public Notice announcing the start date of reconfiguration in the first NPSPAC region. Relocation will commence according to the schedule set by the Transition Administrator but all systems must have commenced reconfiguration within thirty months of release of a Public Notice announcing the start date of reconfiguration in the first NPSPAC region.

(b) *Voluntary negotiations.* Thirty days before the start date for each NPSPAC region, the Chief of the Public Safety and Critical Infrastructure Division of the Wireless Telecommunications Bureau will issue a Public Notice initiating a three-month voluntary negotiation period. During this voluntary negotiation period, Nextel and all incumbents may negotiate any mutually agreeable relocation agreement. Nextel and relocating incumbents may agree to conduct face-to-face negotiations or either party may elect to communicate with the other party through the Transition Administrator.

(c) *Mandatory negotiations.* If no agreement is reached by the end of the voluntary period, a

three-month mandatory negotiation period will begin during which both Nextel and the incumbents must negotiate in "good faith." Nextel and relocating incumbents may agree to conduct face-to-face negotiations or either party may elect to communicate with the other party through the Transition Administrator. All parties are charged with the obligation of utmost "good faith" in the negotiation process. Among the factors relevant to a "good-faith" determination are: (i) whether the party responsible for paying the cost of band reconfiguration has made a *bona fide* offer to relocate the incumbent to comparable facilities; (ii) the steps the parties have taken to determine the actual cost of relocation to comparable facilities; and (iii) whether either party has unreasonably withheld information, essential to the accurate estimation of relocation costs and procedures, requested by the other party. The Transition Administrator may schedule mandatory settlement negotiations and mediation sessions and the parties must conform to such schedules.

(d) *Transition Administrator.* If no agreement is reached during either the voluntary or mandatory negotiating periods, all disputed issues shall be referred to the Transition Administrator who shall mediate and attempt to resolve them within thirty working days. If disputed issues remain thirty days after the end of the mandatory negotiation period, the Transition Administrator shall forward the record to the Chief of the Public Safety and Critical Infrastructure Division, together with advice on how the matter(s) may be resolved. The Chief of the Public Safety and Critical Infrastructure Division is hereby delegated the authority to rule on disputed issues, *de novo*.

(e) *Waiver Requests.* Incumbents who wish not to relocate according to the schedule may petition the Commission for a waiver of the relocation obligation. Such a waiver would only be granted on a strict non-interference basis.

(f) *Comparable Facilities.* The replacement system provided to an incumbent must be at least equivalent to the existing 800 MHz system with respect to the four factors described in § 90.699(d).

(g) *Information Exchange.* Absent agreement between parties, the Transition Administrator will be responsible for determining the information that relocating incumbents must supply in support of a relocation agreement.

(h) The relevant Regional Planning Committee shall be informed of any proposed changes to any NPSPAC channel.

* * * * *

37. The heading above Section 90.681 is amended to describe the portion of the band where EA-based SMR systems may occupy after band reconfiguration. The cross reference in Section 90.681 is updated as follows:

**POLICIES GOVERNING THE LICENSING AND USE OF EA-BASED SMR SYSTEMS IN
THE 809-824/851-869 MHZ BAND**

Source: 61 FR 6158, 6159, Feb. 16, 1996, unless otherwise noted.

§ 90.681 EA-based SMR service areas.

EA licenses in for channels 711 through 830 and Spectrum Blocks A through V listed in Tables 4 and 5 of §90.617 are available in 175 Economic Areas (EAs) as defined in §90.7.

38. Paragraph (a) of Section 90.683 is amended to reflect the portion of the band where EA-based SMR systems may occupy after band reconfiguration.

§ 90.683 EA-based SMR system operations.

(a) EA-based licensees authorized in the 809–824/854–869 MHz band pursuant to §90.681 may construct and operate base stations using any of the base station frequencies identified in their spectrum block anywhere within their authorized EA, provided that:

* * * * *

39. Paragraphs (a) and (b) of Section 90.685 are amended to reflect the portion of the band where EA-based SMR systems may occupy after band reconfiguration. References to EA Block D are also removed since this block will no longer exist after band reconfiguration.

§ 90.685 Authorization, construction and implementation of EA licenses.

(a) EA licenses in the 809–824/854–869 MHz band will be issued for a term not to exceed ten years. Additionally, EA licensees generally will be afforded a renewal expectancy only for those stations put into service after August 10, 1996.

(b) EA licensees in the 809–824/854–869 MHz band must, within three years of the grant of their initial license, construct and place into operation a sufficient number of base stations to provide coverage to at least one-third of the population of its EA-based service area. Further, each EA licensee must provide coverage to at least two-thirds of the population of the EA-based service area within five years of the grant of their initial license. Alternatively, EA licensees in Channel blocks G through V in the 809–824/854–869 MHz band must provide substantial service to their markets within five years of the grant of their initial license. Substantial service shall be defined as: "Service which is sound, favorable, and substantially above a level of mediocre service."

* * * * *

40. Section 90.687 is updated to reflect the portion of the band where incumbent SMR licensees may remain after band reconfiguration. Cross references are also updated.

§ 90.687 Special provisions regarding assignments and transfers of authorizations for incumbent SMR licensees in the 809–824/854–869 MHz band.

An SMR license initially authorized on any of the channels listed in Table 4 and 5 of §90.617 of this part may transfer or assign its channel(s) to another entity subject to the provisions of §1.948 of this chapter and §90.609(b) of this part. If the proposed transferee or assignee is the EA licensee for the spectrum block to which the channel is allocated, such transfer or assignment presumptively will be deemed to be in the public interest. However, such presumption will be rebuttable.

* * * * *

41. Paragraphs (a), (c), and (d)(2) of Section 90.693 are updated to reflect the portion of the band where grandfathered licensees may remain after band reconfiguration. References to spectrum blocks which will no longer exist after band reconfiguration are also removed.

§ 90.693 Grandfathering provisions for incumbent licensees.

(a) *General provisions.* These provisions apply to "incumbent licensees," all 800 MHz licensees authorized in the 809–821/854–866 MHz band who obtained licenses or filed applications on or before December 15, 1995.

* * * * *

(c) *Special provisions for spectrum blocks G through V.* Incumbent licensees that have received the consent of all affected parties or a certified frequency coordinator to utilize an 18 dBμV/m signal strength interference contour shall have their service area defined by their originally-licensed 36 dBμV/m field strength contour and their interference contour shall be defined as their originally-licensed 18 dBμV/m field strength contour. The "originally-licensed" contour shall be calculated using the maximum ERP and the actual HAAT along each radial. Incumbent licensees seeking to utilize an 18 dBμV/m signal strength interference contour shall first seek to obtain the consent of affected co-channel incumbents. When the consent of a co-channel licensee is withheld, an incumbent licensee may submit to any certified frequency coordinator an engineering study showing that interference will not occur, together with proof that the incumbent licensee has sought consent. Incumbent licensees are permitted to add, remove or modify transmitter sites within their original 18 dBμV/m field strength contour without prior notification to the Commission so long as their original 18 dBμV/m field strength contour is not expanded and the station complies with the Commission's short-spacing criteria in §§90.621(b)(4) through 90.621(b)(6). Incumbent licensee protection extends only to its 36 dBμV/m signal strength contour. Pursuant to the minor modification notification procedure set forth in 1.947(b), the incumbent licensee must notify the Commission within 30 days of any changes in technical parameters or additional stations constructed that fall within the short-spacing criteria. See 47 CFR 90.621(b).

* * * * *

(d) * * *

(2) *Special Provisions for Spectrum Blocks G through V.* Incumbent licensees that have received the consent of all affected parties or a certified frequency coordinator to utilize an 18 dBμV/m signal strength interference contour operating at multiple sites may, after grant of EA licenses has been completed, exchange multiple site licenses for a single license. This single site license will authorize operations throughout the contiguous and overlapping 36 dBμV/m field strength contours of the multiple sites. Incumbents exercising this license exchange option must submit specific information on Form 601 for each of their external base sites after the close of the 800 SMR auction. The incumbent's geographic license area is defined by the contiguous and overlapping 18 dBμV/m contours of its constructed and operational external base stations and interior sites that are constructed within the construction period applicable to the incumbent. Once the geographic license is issued, facilities that are added within an incumbent's existing footprint and that are not subject to prior approval by the Commission will not be subject to construction requirements.

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APPENDIX D: ENHANCED BEST PRACTICES**A. Introduction**

1. Enhanced Best Practices have been an effective tool in the voluntary interference abatement efforts undertaken to date. The term Enhanced Best Practices has no precise definition but can be understood to mean all effective means of abating unacceptable interference other than “channel swaps” or wholesale reconfiguration of the band. The effort to develop Enhanced Best Practices began in 2000 when a team of ESMR and Cellular Telephone licensees, public safety organizations, private radio organizations, equipment manufacturers and others produced the Best Practices Guide. Those best practices have been added to and enhanced in the intervening years, leading us to characterize them today as Enhanced Best Practices. We commend those parties that urge that a new Enhanced Best Practices Guide be prepared to update the original document. Below, we discuss the principal techniques comprehended by Enhanced Best Practices and discuss their relative advantages and disadvantages as reflected by our analysis of the record.

B. Interference Abatement at the Cell Site

2. *Modification of Antenna Pattern, Height and Orientation.* Commenting parties have observed that the ESMR and Cellular Telephone licensees often employ cell antennas with significant minor lobes in their vertical patterns mounted at very low elevations—e.g., twenty-five feet—and tilted down so that the main lobe of the antenna is directed “on the street,” as opposed to the horizon.⁸³⁶ Use of such antennas results in a very strong, e.g., -25 dBm, signal in the immediate vicinity and creates high levels of OOB and intermodulation interference to nearby public safety receivers. ESMR and Cellular Telephone interests claim that this “low-site” cell configuration is necessary to prevent a cell from interfering with nearby cells operating on the same frequency, i.e., that the ESMR or Cellular Telephone operator uses low-site cell configuration in order to avoid interference internal to its own system and to improve in-building coverage from the cell.⁸³⁷ However this low-site cell configuration also greatly increases the potential for the cell to cause interference to nearby public safety radios.⁸³⁸ REMEC, an antenna manufacturer, contends that ESMR and Cellular Telephone licensees could substantially reduce interference if the vertical patterns of their antennas distributed R.F. energy evenly on the ground as a function of the distance from the cell site.⁸³⁹ Use of such “smooth pattern” antennas is an Enhanced Best Practices that could contribute to abatement of unacceptable interference.

3. *Effective Radiated Power Limitation.* Several parties noted the correlation between the effective radiated power (ERP) of a cell and the level of interference that cell creates.⁸⁴⁰ These parties contend that reducing ERP, either system wide or on a case-by-case basis, to levels as low as ten watts

⁸³⁶ See Undated Letter from Allen Rosenzweig, REMEC, Inc.; Motorola Comments at 20.

⁸³⁷ See Best Practices Guide at 7, Technical Appendix to Island Cellular Comments at 7.

⁸³⁸ See Nextel Oct. 31, 2003 *ex parte* submission at 9. See also Motorola Comments at 20; C&M Comments at 3.

⁸³⁹ REMEC claims that antennas could generate these patterns by approximating a cosecant squared function. See Undated Letter from Allen Rosenzweig, REMEC, Inc.

⁸⁴⁰ See, e.g., Project 39, Interference to Public Safety 800 MHz Radio Systems, *Interim Report to the FCC*, December 24, 2001 at 12-21, *Best Practices* at 7-8; Motorola Comments at 20. See also Alltel, *et al.*, Comments at 14; Alltel, *et al.*, Reply Comments at 31; Delmarva P&L Reply Comments at 22.

would remedy intermodulation interference and, to a lesser extent, OOB interference.⁸⁴¹ However, ESMR interests contend that significantly reducing ERP at a cell would impair subscriber service and necessitate constructing additional cells in a system to compensate for the reduced coverage of the system's other cells. This, they aver, would only serve to create additional interference in the vicinity of the new cells.⁸⁴²

4. ERP reduction can provide significant abatement of intermodulation interference because, for example, when third-order intermodulation interference occurs, a three dB reduction in intermodulation interference can be attained for every one dB reduction in the ERP of a contributing ESMR or Cellular Telephone channel.⁸⁴³ However an across-the-board reduction of the ERP of ESMR or Cellular Telephone systems to ten watts would have serious consequences in the form of impaired ESMR or Cellular Telephone service in areas in which interference to public safety systems is not being caused; and because it would result in coverage "holes" in existing systems, which holes would have to be filled using additional cells which themselves could be a source of intermodulation or OOB interference. Accordingly, in our accompanying *Report and Order* we decline to impose ERP limits, recognizing, however, that ESMR or Cellular Telephone carriers may well elect to reduce ERP as an Enhanced Best Practices to abate unacceptable interference occurring at particular cells during band reconfiguration and thereafter.

C. Limitation on Use of Low Sites

5. Low elevation of cell site antennas has been the reported cause of high on-the-street signal levels and several parties argue that licensees should increase antenna height to avoid unacceptable interference.⁸⁴⁴ However, it is not the differential path length between high and low sites that causes the problem. For example, the path attenuation difference between a 200 foot antenna height and a 20 foot antenna height is negligible.⁸⁴⁵ Instead, the low-site problem most frequently arises from two factors. First, all other things being equal, the vertical "main beam" of a low-site cell will fall closer to the cell than the main beam of a higher antenna⁸⁴⁶ as will minor lobes in the vertical pattern of the antenna. Second, ESMR and cellular licensees make widespread use of mechanical or electrical beam tilt which causes the vertical main beam of the antenna to fall directly "on the street" in the immediate vicinity of the cell.⁸⁴⁷ This appears to be a design choice when localized building penetration is important or when the

⁸⁴¹ *Id.*

⁸⁴² See PSWN Comments at 18; Consensus Parties' Aug. 7 *Ex Parte* at 40-41.

⁸⁴³ See Motorola Interference Technical Appendix to the Best Practices Guide at 11.

⁸⁴⁴ See, e.g., Project 39, Interference to Public Safety 800 MHz Radio Systems, *Interim Report to the FCC*, December 24, 2001 at 12-21, Best Practices Guide at 7-8, Motorola Comments at 20.

⁸⁴⁵ For example, at a distance of 305 meters (1000) feet from a cell site, the free space loss for antennas mounted at 61 meters (200 feet) AGL and 6 meters (20 feet) AGL differs by only 0.17 dB, calculated as follows: The distance (D) over a straight line from a receiving antenna to the radiation center of the transmitting antenna is defined for particular heights (H) by $(D^2 + H^2)^{0.5}$. The path loss over the distance (D) is defined by $53.3 + 20 \log(D_{\text{meters}}) + 20 \log(F_{\text{MHz}})$.

⁸⁴⁶ Thus, for example, given an antenna having a 10 degree 3 dB beamwidth, the main beam of the antenna will intersect the ground at 1134 feet from the cell when mounted on a 200 foot tower, but only at 113 feet from the cell when mounted on a 20 foot tower.

⁸⁴⁷ See Motorola Interference Technical Appendix to Best Practices Guide at 11. See also Motorola Comments at 20.

wide coverage characteristic of high-site cells with little or any beam tilt—is either not required or would impair system subscriber capacity by limiting frequency reuse in nearby cells.⁸⁴⁸ Thus, given this correlation between low-site cells, especially those with beam tilted antennas, and interference to public safety and other non-cellular radios in the vicinity of the cell it can be concluded that: (1) avoiding low-site cell configurations is an effective Enhanced Best Practice, albeit one that can limit subscriber capacity and building penetration; and (2) the low-site/high-site distinction is useful as one means of defining what constitutes a “cellular system” in the context of 800 MHz technology.⁸⁴⁹

D. Filtering of Cumulative OOB Interference

6. Several parties have noted that a significant reduction in OOB interference results when ESMR and Cellular Telephone licensees avoid the use of devices known as hybrid combiners. A combiner, as the name implies, feeds multiple transmitters into a single antenna. Hybrid combiners are not frequency-selective, and thus pass all frequencies fed into them. A cavity combiner, by comparison, uses frequency-selective resonant cavities which pass individual channels, but reject noise that falls outside those channels, *i.e.* OOB.⁸⁵⁰ Hybrid combiners are less expensive than cavity combiners and may be suitable in cases where OOB is not likely to be a problem, *e.g.* in high-site cells or cells in which external filtering equipment is installed. The use of cavity combiners, alone or in combination with outboard filters is another useful Enhanced Best Practice available to ESMR and Cellular Telephone licensees. Use of cavity combiners and outboard filters is an Enhanced Best Practice that can be made proactive, rather than reactive; *e.g.* by integrating the devices into system design before unacceptable interference develops.

E. Cell Site Channel Selection.

7. Cells may be configured to avoid using channels that can cause intermodulation products to fall on specific public safety and other non-cellular 800 MHz channels. Changing channels was a remedy initially discussed in the *Best Practices Guide* and often has proven effective in addressing intermodulation interference to public safety systems.⁸⁵¹ However, the utility of the technique must be viewed against the fact that restricting channel selection can impair the subscriber capacity of the ESMR or Cellular Telephone system.⁸⁵² Moreover, since the channels used at cells change frequently, channel changes sometimes provide only a temporary solution to an interference problem, especially when the intermodulation product is produced by signals from both an ESMR cell and a Cellular Telephone cell. Moreover, as Cellular Telephone licensees convert from analog to digital technology—such as code division multiple access (CDMA)—it may no longer be possible to abate intermodulation interference by changing the channels in a cell or cells.⁸⁵³

⁸⁴⁸ See *Best Practices Guide* at 7, Island SMR Comments, Exhibit A at 7.

⁸⁴⁹ Thus, we have decided to exclude systems using transmitting antennas 200 feet above ground level or higher from our definition of an 800 MHz cellular system. See Section VI.C.2.e *supra*.

⁸⁵⁰ See UTC Comments at 19-20; Motient Comments at 4-5; Southern LINC Comments at 20.

⁸⁵¹ See Consensus Parties' Aug 7 *Ex Parte* at 23.

⁸⁵² *Id.*

⁸⁵³ See *e.g.*, recent articles indicating that Nextel is testing CDMA technology in the 1.9 GHz band: <http://phx.corporate-ir.net/phoenix.zhtml?c=63347&p=irol-newsArticle&t=Regular&id=492688&>, http://www.flarion.com/newsroom/about_06_14a_02.html and Communications Daily Feb. 9, 2004 at 9.

F. Proper Operation of Cell Site Transmitters.

8. Motorola included proper operation of base stations as one of the interference mitigation techniques in its *Technical Toolbox*. ESMR and Cellular Telephone base station equipment can malfunction and cause increased interference, notably, excessive OOB. Any attempt to abate interference through application of Enhanced Best Practices, or otherwise, should consider malfunction of base station transmitters as a possible interference culprit.

G. Increasing the strength of the affected non-cellular signal

9. Improving the signal strength of the desired signal is another Enhanced Best Practice that is frequently difficult to implement. It is clear that most public safety agencies lack the resources to make immediate coverage improvements to their systems. The funding cycle for public safety systems often is measured in multiples of years. It is likewise clear that where coverage improvements are needed most—in areas served by high density ESMR and cellular telephone systems—the requisite additional frequencies are less likely to be available. However, with the appropriate engineering design, otherwise intractable interference problems can sometimes be addressed by use of such technology as simulcasting and the use of signal boosters to provide “spot coverage” in areas affected by unacceptable interference.

10. Unacceptable interference is most frequently a function of the ratio of the desired (non-cellular) signal to the potentially interfering (ESMR or Cellular Telephone) signal. From a strictly technical standpoint, a licensee can achieve meaningful improvements in its signal strength by increasing the base station transmitter power, antenna gain or antenna elevation,⁸⁵⁴ or by constructing additional base stations.⁸⁵⁵ From a practical standpoint, however, there are several obstacles to improving signal strength; the most serious being cost and the availability of frequencies if base stations are added. A rule requiring licensees to place a minimum predicted service contour, e.g. 50 dBμV/m, over their desired coverage area has been advanced as an effective interference abatement Enhanced Best Practice. Under such a scheme stations would be protected against interference within that contour.⁸⁵⁶ However, in many circumstances, this could require 800 MHz non-cellular licensees to increase power by a factor of ten or more; or to resort to constructing additional base stations. In the accompanying *Report and Order* substantially the same interference-protection goal has been reached by establishing the measured, rather than predicted, threshold signal level that a public safety signal must attain in areas in which unacceptable interference is encountered or predicted.

⁸⁵⁴ See *Best Practices Guide* at 12.

⁸⁵⁵ *Id.*

⁸⁵⁶ See *TIA Comments* at 4.

APPENDIX E: ILLUSTRATIVE FORM OF LETTER OF CREDIT

[Subject to Issuing Bank Requirements]

No. _____

[Date of Issuance]

[Trustee]

[Address]

Ladies and Gentlemen:

We hereby establish, at the request and for the account of Nextel Communications, Inc., in your favor, as required under the [Report and Order and Fifth Report and Order and Fourth Memorandum Opinion and Order, and Order dated as of _____, 2004] issued by the Federal Communications Commission ("FCC") in the matter of Improving Public Safety Communications in the 800 MHz Band (the "Order"), our Irrevocable Letter of Credit No. _____, in the amount of \$2,500,000,000 (Two Billion Five Hundred Million United States Dollars), expiring at the close of banking business at our office described in the following paragraph, on [the date which is five years from the date of issuance/ or the date which is one year from the date of issuance, provided the Issuing Bank includes an evergreen clause that provides for automatic renewal unless the Issuing Bank gives notice of non-renewal to the Trustee, with a copy to the FCC, at least sixty days but not more than ninety days prior to the expiry thereof], or such earlier date as the Letter of Credit is terminated by the Trustee (the "Expiration Date"). Capitalized terms used herein but not defined herein shall have the meanings accorded such terms in the Order.

Funds under this Letter of Credit are available to you against your draft in the form attached hereto as Annex A, drawn on our office described below, and referring thereon to the number of this Letter of Credit, accompanied by your written and completed certificate signed by you substantially in the form of Annex B-1 attached hereto and, if applicable, the Transition Administrator's written and completed certificate signed by the Transition Administrator substantially in the form of Annex B-2 attached hereto. Such draft and certificates shall be dated the date of presentation or an earlier date, which presentation shall be made at our office located at [BANK ADDRESS] and shall be effected either by personal delivery or delivery by a nationally recognized overnight delivery service. We hereby commit and agree to accept such presentation at such office, and if such presentation of documents appears on its face to comply with the terms and conditions of this Letter of Credit, on or prior to the Expiration Date, we will honor the same not later than the first banking day after presentation thereof in accordance with your payment instructions. Payment under this Letter of Credit shall be made by [check/wire transfer of Federal Reserve Bank of New York funds] to the payee and for the account you designate, in accordance with the instructions set forth in a draft presented in connection with a draw under this Letter of Credit.

Partial drawings are permitted under this Letter of Credit, and the amount of this Letter of Credit shall be reduced by each such partial draw hereunder.

This Letter of Credit shall be subject to automatic amendment by a decrease in the amount available hereunder to the amount specified in a Transition Administrator's certificate purportedly signed by the Transition administrator or, if not an individual, by two authorized representatives of the Transition Administrator, and countersigned by an authorized signatory of the FCC in the form attached as Annex C, which amendment shall automatically become effective upon receipt of such certificate.

This Letter of Credit shall be canceled and terminated upon receipt by us of the Transition Administrator's certificate purportedly signed by the Transition Administrator or, if not an individual, by two authorized representatives of the Transition Administrator, and in either case countersigned by an authorized signatory of the FCC in the form attached as Annex D.

This Letter of Credit is not transferable or assignable in whole or in part, except that this Letter of Credit may be assigned or transferred to any successor trustee succeeding you upon **[insert Issuing Bank's standard practice language, such as language regarding requirements for timely notification and supplemental documentation.]**

This Letter of Credit sets forth in full the undertaking of the Issuer, and such undertaking shall not in any way be modified, amended, amplified or limited by reference to any document, instrument or agreement referred to herein, except only the certificates and the drafts referred to herein and the ISP (as defined below); and any such reference shall not be deemed to incorporate herein by reference any document, instrument or agreement except for such certificates and such drafts and the ISP.

This Letter of Credit shall be subject to, governed by, and construed in accordance with, the International Standby Practices 1998, International Chamber of Commerce Publication No. 590 (the "ISP"), which is incorporated into the text of this Letter of Credit by this reference, and, to the extent not inconsistent therewith, the laws of the State of New York including the Uniform Commercial Code as in effect in the State of New York. Communications with respect to this Letter of Credit shall be addressed to us at our address set forth below, specifically referring to the number of this Letter of Credit.

[NAME OF BANK]
[BANK SIGNATURE]

APPENDIX E-ANNEX AForm of Draft

To: [Issuing Bank]

DRAWN ON LETTER OF CREDIT No: _____

AT SIGHT

PAY TO THE ORDER OF _____ [insert name of
Trustee] BY [CHECK/WIRE TRANSFER OF FEDERAL RESERVE BANK OF NEW
YORK]

FUNDS TO: _____

Account (_____)

AS 800 MHz RELOCATION and TRANSITION PAYMENTS

[AMOUNT IN WORDS] DOLLARS AND NO/CENTS

[\$[AMOUNT IN NUMBERS]

[TRUSTEE]

By: _____

APPENDIX E-ANNEX B-1Draw Certificate

The undersigned hereby certifies to [Name of Bank] (the "Bank"), with reference to (a) Irrevocable Standby Letter of Credit No. [Number] (the "Letter of Credit") issued by the Bank in favor of the [Trustee] and (b) [paragraph 332] of the [Report and Order and Fifth Report and Order and Fourth Memorandum Opinion and Order, and Order] dated as of _____, 2004] issued by the Federal Communications Commission in the matter of Improving Public Safety Communications in the 800 MHz Band (the "Order"), pursuant to which Nextel Communications, Inc. (the "LC Provider") has provided the Letter of Credit (all capitalized terms used herein but not defined herein having the meaning stated in the Order), that:

i. The Transition Administrator has certified to the Trustee that pursuant to the Order, a payment in the amount of \$_____ is appropriate to be made to the Trustee to hold in trust and disburse in payment of the expenses for _____, and further certifying that the Transition Administrator instructs the Trustee to make such payment via draw on Letter of Credit No. _____; and

ii. A copy of the signed certification referred to in clause (i) above and in the form of Annex B-2 to Letter of Credit No. _____, purportedly signed by or on behalf of the Transition Administrator is attached hereto.]

OR

[The FCC has certified to the Trustee that pursuant to the Order and the Commission's finding that Nextel is in material breach of the terms of the Order, the Trustee is entitled to receive payment of \$_____ representing the remaining undrawn amount of Letter of Credit No. _____, to hold in trust and disburse in accordance with the terms of the Order.

OR

[The FCC has certified to the Trustee that given notice of non-renewal of Letter of Credit No. _____ and failure of the account party to obtain a satisfactory replacement thereof, pursuant to the Order, the Trustee is entitled to receive payment of \$_____ representing the remaining amount of Letter of Credit No. _____, to hold in trust and disburse pursuant to the Order.]

IN WITNESS WHEREOF, the undersigned has executed this certificate as of [specify time of day] on the ____ day of _____, 200__.

[TRUSTEE]

By: _____

Name:

Title:

APPENDIX E-ANNEX B-2Draw Certificate of Transition Administrator

The undersigned hereby certifies to the [Trustee] (the "Trustee"), with reference to [paragraph 332 of the [Report and Order and Fifth Report and Order and Fourth Memorandum Opinion and Order, and Order dated as of _____, 2004] issued by the Federal Communications Commission in the matter of Improving Public Safety Communications in the 800 MHz Band (the "Order"), pursuant to which Nextel Communications, Inc. (the "LC Provider") has provided the Letter of Credit (all capitalized terms used herein but not defined herein having the meaning stated in the Order), that:

i. _____ [Name of licensee] is an 800 MHz licensee that has obtained a quotation for [estimated expenses/final expenses] in the amount of \$ _____ in connection with transition from _____ [specify spectrum] to _____ [specify spectrum] which are appropriately reimbursable under the Order, and such amount is appropriately payable for relocation expenses on behalf of [Name of licensee], and [either (i) **there has been no dispute regarding the amount of such payment, or (ii) any dispute regarding the amount of such payment has been resolved in accordance with the Order**], and

ii. The undersigned has established and will maintain for [specify time period] a file containing documents and records that demonstrate with reasonable specificity according to industry standards and [financial standards for expense documentation / other standards or standards contained in the Order] conclusions stated in its certification in clause (i) above, and such file shall be available during regular business hours for inspection or audit by [who will audit (or specify auditors for) the Transition Administrator?]

Based on the foregoing, the Transition Administrator hereby directs the Trustee to draw on the Letter of Credit in the amount and for the benefit of the party specified in clause (i) above, payable as follows: [Insert Payment Instruction/payment instructions to follow in separate documentation]

IN WITNESS WHEREOF, the undersigned has executed this certificate as of the ____ day of _____, 200__.

[TRANSITION ADMINISTRATOR]

[TWO SIGNATURES REQUIRED IF TRANSITION ADMINISTRATOR IS AN ENTITY; ONE SIGNATURE REQUIRED IF TRANSITION ADMINISTRATOR IS A NATURAL PERSON]

By: _____

Name:

Title:

[By: _____]

Name:

Title:

APPENDIX E-ANNEX CCertificate Regarding Reduction of Letter of Credit

The undersigned hereby certifies to [Name of Bank] (the "Bank"), with reference to (a) Irrevocable Standby Letter of Credit No. [Number] (the "Letter of Credit") issued by the Bank in favor of the [trustee], and (b) [paragraph 332] of the [Report and Order and Fifth Report and Order and Fourth Memorandum Opinion and Order, and Order] dated as of _____, 2004] issued by the Federal Communications Commission ("FCC") in the matter of Improving Public Safety Communications in the 800 MHz Band (the "Order"), (all capitalized terms used herein but not defined herein having the meaning stated or described in the Order), that:

(1) the undersigned Transition Administrator has documented, pursuant to the Order, that the amount of the Letter of Credit (prior to adjustment as set forth in clause (2) below) exceeds the amount needed to ensure completion of band configuration; and

(2) the amount of the Letter of Credit shall be reduced to the amount equal to \$ _____ [_____ Dollars].

IN WITNESS WHEREOF, the undersigned has executed this certificate as of the ____ day of _____, 200__.

[TRANSITION ADMINISTRATOR]

[TWO SIGNATURES REQUIRED IF TRANSITION ADMINISTRATOR IS AN ENTITY; ONE SIGNATURE REQUIRED IF TRANSITION ADMINISTRATOR IS A NATURAL PERSON]

By: _____
Name:
Title:

[By: _____]
Name:
Title:

COUNTERSIGNED:

Federal Communications Commission

By: _____
Name:
Its Authorized Signatory

APPENDIX E-ANNEX DCertificate Regarding Termination of Letter of Credit

The undersigned hereby certifies to [Name of Bank] (the "Bank"), with reference to (a) Irrevocable Standby Letter of Credit No. [Number] (the "Letter of Credit") issued by the Bank in favor of the [trustee], and (b) [paragraph 332] of the [Report and Order and Fifth Report and Order and Fourth Memorandum Opinion and Order, and Order] dated as of _____, 2004] issued by the Federal Communications Commission ("FCC") in the matter of Improving Public Safety Communications in the 800 MHz Band (the "Order"), (all capitalized terms used herein but not defined herein having the meaning stated or described in the Order), that:

(1) [include one of the following clauses, as applicable]

(a) **The Order has been fulfilled in accordance with the provisions thereof;**

(b) **Nextel Communications, Inc. has paid to the appropriate parties all amounts it is required to pay pursuant to the terms of the Order; or**

(c) **Nextel Communications, Inc. has provided a replacement letter of credit satisfactory to the FCC.**

(2) By reason of the event or circumstance described in paragraph (1) of this certificate, and effective upon the receipt by the Bank of this certificate (countersigned as set forth below), the Letter of Credit is terminated.

IN WITNESS WHEREOF, the undersigned has executed this certificate as of the ____ day of _____, 200__.

[TRANSITION ADMINISTRATOR]

[TWO SIGNATURES REQUIRED IF TRANSITION
ADMINISTRATOR IS AN ENTITY; ONE
SIGNATURE REQUIRED IF TRANSITION
ADMINISTRATOR IS A NATURAL PERSON]

By: _____

Name:

Title:

[By: _____]

Name:

Title:

COUNTERSIGNED:

Federal Communications Commission

By: _____

Name:

Its Authorized Signatory

APPENDIX E-ANNEX ETerms for Documents Establishing the 800 MHz Relocation Trust and the Relationship between Nextel and the Letter of Credit Trustee (the "Trustee")

Basic Terms related to the Establishment of the 800 MHz Relocation Trust. The Letter of Credit trustee (the "Trustee") shall incorporate language to fully effectuate the following summary terms into each item of documentation establishing (i) the trust to receive proceeds of the letter of credit contemplated by the Report and Order (the "800 MHz Relocation Trust") and (ii) the relationship between Nextel and the Trustee of said trust with respect thereto. Each such document shall be subject to Commission review and approval prior to execution.

- acknowledgment of purpose to effect the 800 MHz transition in support of public safety, and agreement to work in good faith with the other parties pursuant to the Report and Order
- representation and warranty by the Trustee that such entity (not an individual) meets the qualifications set forth in the Report and Order (e.g., independence and absence of conflicts of interest)
- designation of the Commission as an intended third-party beneficiary; no other party to be an intended third-party beneficiary
- definition of completion of the reconfiguration
- term—five years, or until the 800 MHz transition is complete, whichever is earlier
- successor Trustee requires approval of the Commission
- replacement of Trustee at Nextel's request—define "cause" and require showing of cause and 14 days advance notice to the parties and to the Commission
- election by Trustee to withdraw from arrangement—requires 14 days advance notice to the parties and to the Commission; may require ongoing monetary obligation or duty of Trustee, as applicable (for example, to support transition)
- change of control of Trustee—requires approval of Nextel (so long as Nextel is not then in Default under the Report and Order) and the Commission, which approval shall not be unreasonably withheld but which may be conditional
- notice procedure - specifies which notices shall be copied to the Commission

Terms Specific to the Establishment of the 800 MHz Relocation Trust. At the option of the Trustee, the following points may be covered in one or more agreements (for example, there may be a separate fee letter).

- corpus of trust to be proceeds of one or more LOCs issued for the account of Nextel pursuant to the Report and Order
- Trustee agrees to hold money as fiduciary for 800 MHz licensees and for the Commission; fiduciary obligations fulfilled via handling of funds according to standards

applied to corporate trustees, and via disbursement of funds pursuant to instructions issued by the Transition Administrator. The Trustee should be a fiduciary of the Transition Administrator

- specifies record-keeping obligations pursuant to the Report and Order
- specifies reporting obligations pursuant to the Report and Order
- specifies audit and inspection rights of Nextel and the Commission, including allocation of costs thereof
- specifies details concerning fees to be paid by Nextel to the Trustee
- specifies that the trust agreement may not be amended, modified or rescinded without approval of the Commission
- specifies that the corpus of the trust(s) shall be forfeit to the United States Treasury to the extent that Nextel fails to make any of the payments owed to the Treasury by the date specified in the Commission's Report and Order
- specifies additional terms of a customary nature for agreements establishing a corporate trust

Terms for Tri-Party Agreement among Nextel, the Transition Administrator and the Letter of Credit Trustee (the "Trustee")

Basic Terms. The Tri-Party Agreement among Nextel, the Transition Administrator (sometimes referred to herein as the "TA") and the Trustee shall incorporate language to fully effectuate the following summary terms and shall be subject to Commission review and approval prior to execution:

- acknowledgment of purpose to effect the 800 MHz transition in support of public safety, and agreement to work in good faith with the other parties pursuant to the Report and Order
- representation and warranty by each of the Transition Administrator and the Trustee that such person (individual or entity) meets the qualifications set forth in the Report and Order (e.g., independence and absence of conflicts of interest)
- designation of the Commission as an intended third-party beneficiary; no other party to be an intended third-party beneficiary
- definition of completion of the reconfiguration
- term—five years, or until the 800 MHz transition is complete, whichever is earlier
- successor Transition Administrator/Trustee requires approval of the Commission
- replacement of Transition Administrator/Trustee at Nextel's request—define "cause" and require showing of cause and 14 days advance notice to the parties and to the Commission
- election by Transition Administrator/Trustee to withdraw from arrangement—requires 14 days advance notice to the parties and to the Commission; may require ongoing monetary obligation or duty of Transition Administrator/Trustee, as applicable (for example, to support transition)
- change of control of Transition Administrator/Trustee—requires approval of Nextel (so long as Nextel is not then in Default under the Report and Order) and the Commission, which approval shall not be unreasonably withheld but which may be conditional
- replacement/successor Transition Administrator to be selected by the search committee pursuant to this *Report and Order*
- notice procedure - specifies which notices shall be copied to the Commission
- Note: language to be harmonized as appropriate if the Transition Administrator is a natural person rather than an entity

Terms Specific to Tri-Party Agreement

- tasks the TA with working with the Trustee to set up the trust
- tasks the TA with designing the payment system subject to reasonable approval of Nextel and the Trustee (up front payments vs. progress payments; timing and logistics of payments in conjunction with the LOC system [for example, a draw would be made under

32 pages

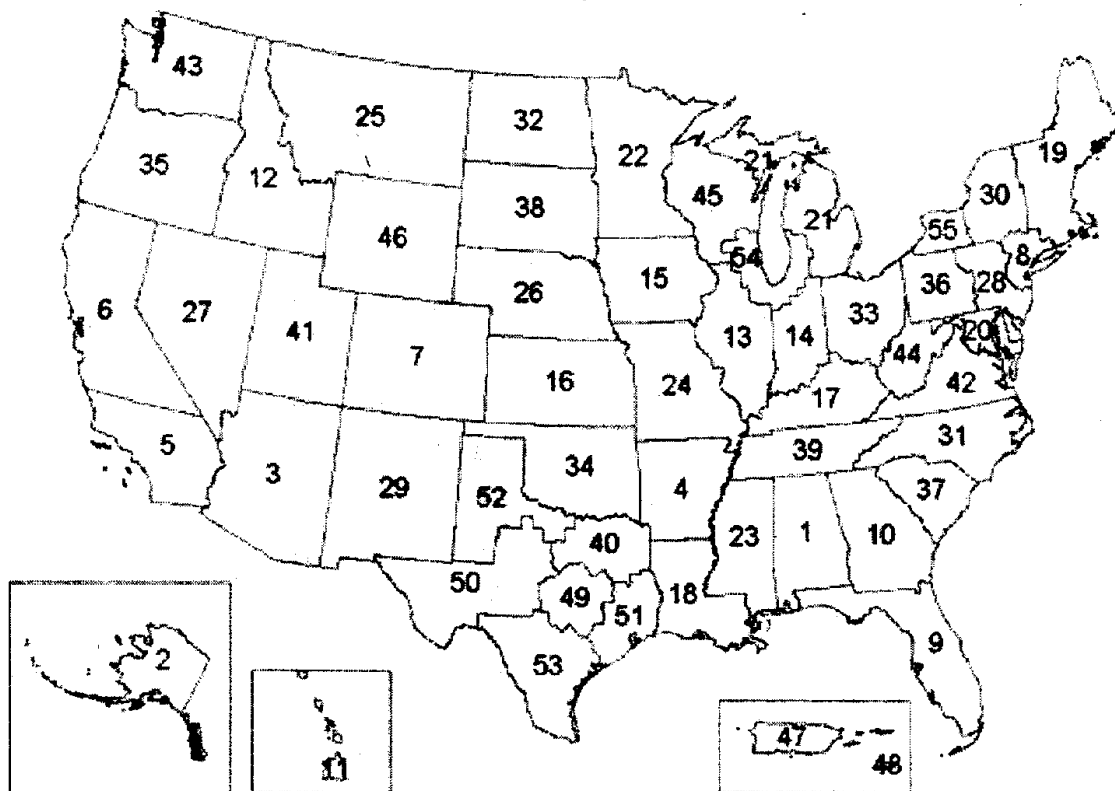
according to payment criteria such as product delivery or project milestones]; how to handle true-ups [either a payment made in excess of an estimate, or a refund collected if the estimate exceeded actual cost]; logistics for obtaining payment approvals, including the approval of Nextel, and for resolving disputes related to payment amounts)

- states the Transition Administrator will not handle any project funds; specifies procedures for the TA to turn over funds it may receive in connection with the project to the Trustee
- specifies how the Trustee will dispose of any refunds it may receive during or after the relocation process
- specifies the Trustee will follow the details of the payment system devised by the TA pursuant to the Tri-Party Agreement
- tasks the TA with developing a system to ensure vendors are not filing mechanics liens or equipment financing liens against the licensees in connection with the transition (or, in the alternative, tracking the release of liens in connection with payments to vendors)
- tasks the TA, as the project manager, with creating a standardized bid package for use by the municipality licensees—including a standardized scope of project, and a standardized documentation package. NOTE: The standardized documentation package could contain the requirement that the vendor obtain a performance bond, which bond would be paid for via the LOC proceeds as part of the cost of the transition. The standardized bid package would be subject to Nextel's reasonable approval.
- tasks the TA with developing standardized bidding procedures for the municipal licensees to follow
- specifies that neither the Trustee nor the Transition Administrator bears the risk that a particular vendor fails to perform, and allocates such risk between Nextel and the licensees—since the municipality/licensees will have control over the award of the contract, it is reasonable they would bear the risk (and where appropriate, the risk could be managed via the performance bond mentioned above)
- specifies additional terms of a customary nature in agreements for management of a project by a third party Project Administrator
- specifies additional terms of a customary nature in agreements for management of payments by a third party Paying Agent (to the extent not covered in the documentation establishing the trust)
- specifies details of dispute resolution mechanisms, including time frames and escalation procedures
- specifies the rights of Nextel vis-à-vis the relocation process absent an event of default by Nextel under the Report and Order
- during the continuance of an event of default by Nextel under the Report and Order, specifies the remedies of the TA and the Trustee (i.e., the consequences to Nextel, such as Nextel losing veto rights concerning a project's cost)

and Order

- specifies audit and inspection rights of Nextel and the Commission, including allocation of costs thereof
- specifies details concerning fees and expenses to be paid by Nextel to the TA and to the Trustee; fees and expenses of the Transition Administrator to conform to notification of Search Committee pursuant to the *Report and Order*
- specifies how the TA and Trustee may be paid in the event of a default by Nextel in the payment of fees to the TA and/or the Trustee -- including a mechanism whereby relief may be sought from the Commission authorizing the proceeds of the LOC be applied against such fees
- specifies that the Tri-Party Agreement may not be amended, modified or rescinded without approval of the Commission
- specifies an order of precedence—that the Tri-Party Agreement would govern in the event of a conflict between the terms of the Tri-Party Agreement and the terms of a bilateral agreement among two of the parties
- specifies a procedure and criteria for Transition Administrator to certify that the 800 MHz relocation is complete, which certification shall allow TA, with Commission's concurrence to seek termination of the Letter(s) of Credit. Termination will also trigger early termination of the Trust and Tri-Party Agreement
- specifies items for which the Transition Administrator may properly seek draws under the Letter of Credit, consistent with the *Report and Order*
- specifies items for which the Transition Administrator may not seek draws under the LOC (such as reimbursement of UTAM, relocation of BAS incumbents) consistent with the *Report and Order*
- specifies that the corpus of the trust(s) shall be forfeit to the U.S. Treasury in the event that Nextel fails to make any of the payments to the Treasury specified in the Commission's *Report and Order*
- specifies responsibilities and guidelines for record-keeping, accounting and dispute resolution related to calculation of the offset described in the *Report and Order*.
- specifies responsibilities and timeliness related to certification of project completion by the Transition Administrator and rendering of the final accounting required in the *Report and Order*.

APPENDIX F: NPSPAC REGIONS



<u>Region 1:</u> Alabama	<u>Region 2:</u> Alaska
<u>Region 3:</u> Arizona	<u>Region 4:</u> Arkansas
<u>Region 5:</u> Southern California	<u>Region 6:</u> Northern California
<u>Region 7:</u> Colorado	<u>Region 8:</u> Metropolitan, NYC Area (NY, NJ, & CT)
<u>Region 9:</u> Florida	<u>Region 10:</u> Georgia
<u>Region 11:</u> Hawaii	<u>Region 12:</u> Idaho
<u>Region 13:</u> Illinois (except Southern Lake Michigan counties)	<u>Region 14:</u> Indiana (except Southern Lake Michigan counties)
<u>Region 15:</u> Iowa	<u>Region 16:</u> Kansas
<u>Region 17:</u> Kentucky	<u>Region 18:</u> Louisiana
<u>Region 19:</u> New England	<u>Region 20:</u> District of Columbia, Maryland, & Northern VA
<u>Region 21:</u> Michigan	<u>Region 22:</u> Minnesota
<u>Region 23:</u> Mississippi	<u>Region 24:</u> Missouri
<u>Region 25:</u> Montana	<u>Region 26:</u> Nebraska
<u>Region 27:</u> Nevada	<u>Region 28:</u> Eastern Pennsylvania (east of Harrisburg, southern NJ & DE)
<u>Region 29:</u> New Mexico	<u>Region 30:</u> Eastern Upstate New York
<u>Region 31:</u> North Carolina	<u>Region 32:</u> North Dakota
<u>Region 33:</u> Ohio	<u>Region 34:</u> Oklahoma
<u>Region 35:</u> Oregon	<u>Region 36:</u> Western Pennsylvania
<u>Region 37:</u> South Carolina	<u>Region 38:</u> South Dakota
<u>Region 39:</u> Tennessee	<u>Region 40:</u> Texas (Central & Northeast)
<u>Region 41:</u> Utah	<u>Region 42:</u> Virginia
<u>Region 43:</u> Washington	<u>Region 44:</u> West Virginia
<u>Region 45:</u> Wisconsin (except Southern Lake Michigan counties)	<u>Region 46:</u> Wyoming
<u>Region 47:</u> Puerto Rico	<u>Region 48:</u> US Virgin Islands
<u>Region 49:</u> Texas - Central (Austin Area)	<u>Region 50:</u> Texas - West & Central (Midland Area)
<u>Region 51:</u> Texas - East (Houston Area)	<u>Region 52:</u> Texas - Panhandle, High Plains & Northwest (Lubbock Area)
<u>Region 53:</u> Texas - Southern (San Antonio Area)	<u>Region 54:</u> Southern Lake Michigan (Great Lakes inc. WI, IL, & IN)
<u>Region 55:</u> Western Upstate New York	

APPENDIX G: SOUTHEAST ESMR BAND PLAN

The ESMR band in the following counties and parishes is the band segment 813.5 - 824 MHz / 858.5-869 MHz. The Expansion Band in these areas shall extend from 812.5-813.5 MHz / 857.5-858.5 MHz. All licensees operating in the band segment 806-813.5 MHz / 851-858.5 MHz shall be afforded the same protection against unacceptable interference as specified in the *Report and Order*.

Alabama

Autauga, Baldwin, Barbour, Bibb, Blount, Bullock, Butler, Calhoun, Chambers, Cherokee, Chilton, Choctaw, Clarke, Clay, Cleburne, Coffee, Colbert, Conecuh, Coosa, Covington, Crenshaw, Cullman, Dale, Dallas, DeKalb, Elmore, Escambia, Etowah, Fayette, Franklin, Geneva, Greene, Hale, Henry, Houston, Jackson, Jefferson, Lamar, Lauderdale, Lawrence, Lee, Limestone, Lowndes, Macon, Madison, Marengo, Marion, Marshall, Mobile, Monroe, Montgomery, Morgan, Perry, Pickens, Pike, Randolph, Russell, Shelby, St Clair, Sumter, Talladega, Tallapoosa, Tuscaloosa, Walker, Washington, Wilcox, Winston

Florida

Bay, Calhoun, Escambia, Franklin, Gadsden, Gulf, Holmes, Jackson, Jefferson, Leon, Liberty, Madison, Nassau, Okaloosa, Santa Rosa, Taylor, Wakulla, Walton, Washington

Georgia

Appling, Atkinson, Bacon, Baker, Baldwin, Banks, Barrow, Bartow, Ben Hill, Berrien, Bibb, Bleckley, Brantley, Brooks, Bryan, Bulloch, Burke, Butts, Calhoun, Camden, Candler, Carroll, Catoosa, Charlton, Chatham, Chattahoochee, Chattooga, Cherokee, Clarke, Clay, Clayton, Clinch, Cobb, Coffee, Colquitt, Columbia, Cook, Coweta, Crawford, Crisp, Dade, Dawson, Decatur, DeKalb, Dodge, Dooly, Dougherty, Douglas, Early, Echols, Effingham, Elbert, Emanuel, Evans, Fannin, Fayette, Floyd, Forsyth, Franklin, Fulton, Gilmer, Glascock, Glynn, Gordon, Grady, Greene, Gwinnett, Habersham, Hall, Hancock, Haralson, Harris, Hart, Heard, Henry, Houston, Irwin, Jackson, Jasper, Jeff Davis, Jefferson, Jenkins, Johnson, Jones, Lamar, Lanier, Laurens, Lee, Liberty, Lincoln, Long, Lowndes, Lumpkin, Macon, Madison, Marion, McDuffie, McIntosh, Meriwether, Miller, Mitchell, Monroe, Montgomery, Morgan, Murray, Muscogee, Newton, Oconee, Oglethorpe, Paulding, Peach, Pickens, Pierce, Pike, Polk, Pulaski, Putnam, Quitman, Rabun, Randolph, Richmond, Rockdale, Schley, Screven, Seminole, Spalding, Stephens, Stewart, Sumter, Talbot, Taliaferro, Tattnall, Taylor, Telfair, Terrell, Thomas, Tift, Toombs, Towns, Treutlen, Troup, Turner, Twiggs, Union, Upson, Walker, Walton, Ware, Warren, Washington, Wayne, Webster, Wheeler, White, Whitfield, Wilcox, Wilkes, Wilkinson, Worth

Louisiana

Catahoula, Concordia, Madison, Tensas

Mississippi

Adams, Alcorn, Amite, Attala, Calhoun, Carroll, Chickasaw, Choctaw, Claiborne, Clarke, Clay, Copiah, Covington, Forrest, Franklin, George, Greene, Grenada, Hancock, Harrison, Hinds, Holmes, Itawamba, Jackson, Jasper, Jefferson, Jefferson Davis, Jones, Kemper, Lamar, Lauderdale, Lawrence, Leake, Lee, Lincoln, Lowndes, Madison, Marion, Monroe, Montgomery, Neshoba, Newton, Noxubee, Oktibbeha, Pearl River, Perry, Pike, Pontotoc, Prentiss, Rankin, Scott, Simpson, Smith, Stone, Tippah, Tishomingo, Union, Walthall, Warren, Wayne, Webster, Wilkinson, Winston, Yazoo

North Carolina

Cherokee, Clay, Graham, Jackson, Macon

Abbeville, Aiken, Allendale, Anderson, Bamberg, Barnwell, Beaufort, Edgefield, Greenwood, Hampton, Jasper, McCormick, Oconee

Tennessee

Bledsoe, Bradley, Franklin, Giles, Hamilton, Hardin, Lawrence, Lincoln, Marion, McMinn

**STATEMENT OF
CHAIRMAN MICHAEL K. POWELL**

*Re: Improving Public Safety Communications in the 800 MHz Band (WT Docket No. 02-55), et al.,
Report and Order and Fourth Report and Order*

Congress has imposed many important obligations on the Commission. One of the Commission's most important commitments is to promote safety of life and property using wire and radio communications. Today, it is more important than ever before that public safety agencies have access to reliable, robust, interference-free communications systems. To protect our communities, our citizens, and our Nation, we must take every action at our disposal to achieve the seamless communications necessary for emergency preparedness and response.

The 800 MHz band has become increasingly crucial to public safety communications. Because of the interleaved nature of the band and the close proximity of incompatible technologies, over the years, these systems have encountered escalating amounts of interference from commercial cellular systems. In response, the Commission released a Notice of Proposed Rulemaking to reconfigure the 800 MHz band to abate the interference caused to public safety systems. This proceeding's extensive record of over 2,200 filings depicts the complexity of the issue and difficulty in constructing a solution that is technically sound, effective and equitable to all parties. Although today's Order incorporates proposals and suggestions from various parties on record, it is a Commission-derived solution that represents the most comprehensive and effective means of solving the 800 MHz public safety interference problem.

Our decision fulfills our mandate to promote public safety by reconfiguring the 800 MHz public safety band to segregate systems causing unacceptable levels of interference to public safety communications. Without these measures, countless lives are at risk because our Nation's first responders cannot rely on their radios in emergencies. In the short term, the Order establishes technical rules and procedures that define and alleviate "unacceptable interference" to public safety systems. Longer term, the Order adopts a restructuring plan that spectrally separates incompatible technologies to maximize interference protection for present and future public safety systems and provides a smooth transition to the new band with minimal disruption to public safety systems and other affected parties.

The Commission-derived plan requires Nextel to relinquish spectrum and reband 800 MHz and relocate incumbents in 800 MHz and 1.9 GHz. Nextel must also complete the reconfiguration within three years and obtain a letter of credit to guarantee its completion for public safety licensees. It is important to emphasize that Nextel is responsible for all costs of relocating public safety licensees.

This decision is by far one of the most complex matters to come before the Commission; however, it is unquestionably one of the most important decision affecting public safety and the American people. We will carefully monitor the progress of public safety relocation and will take all necessary steps to ensure full compliance of the plan we adopt today.

**STATEMENT OF
COMMISSIONER KATHLEEN Q. ABERNATHY**

*Re: Improving Public Safety Communications in the 800 MHz band,
WT Docket No. 02-55*

For three years we have struggled to identify the best way to resolve public safety interference problems in the 800 MHz band. After reviewing the voluminous record it became clear to me that: 1) the adoption of enhanced best practices alone would be inadequate to protect critical public safety communications; and 2) any rebanding solution would be costly, complex and controversial. I embrace today's decision because it puts public safety's interests first. While I recognize that the rebanding plan is costly, complex and, in some respects, controversial, it is the only the solution that adequately addresses the needs of public safety while realigning other uses of the 800 MHz band.

When we initiated this proceeding, I stated that there were four key considerations which would likely guide my analysis. First, the plan must aggressively attack the public safety interference issues. Second, our approach should strive to minimize costs. Third, if possible, we should attempt to minimize the disruption to other bands. And fourth, if we were to consolidate public safety into a contiguous band and there is a demonstrated need in the record, we should identify additional interoperability channels for public safety. Today's order addresses each of these considerations.

As an initial step we adopt mandatory best practices that will diminish, but not eliminate, the potential for harmful interference to public safety. Over the longer term, we are implementing a rebanding plan that completely eliminates harmful interference and provides additional spectrum for public safety. Rebanding will be paid for by Nextel, thus ensuring that public safety does not incur any new costs, and the processes we have adopted will minimize service disruptions.

Because of the importance of achieving a workable solution for public safety and the American public, and the complex technical issues, this has not been an easy proceeding to resolve. I believe, however, that the plan we are adopting is the best mechanism available to us to solve the public safety interference problem in the 800 MHz band and I appreciate all of the time, effort and brain power devoted to this proceeding by public safety, industry and the FCC staff.

**STATEMENT OF
COMMISSIONER MICHAEL J. COPPS**

RE: Improving Public Safety Communications in the 800 MHz Band, WT Docket No. 02-55.

Today we take a giant leap forward to protect public safety. Title I of our enabling statute charges the Federal Communications Commission to promote the national defense and the safety of life and property through the wise use of our country's communications systems. Indeed, a public servant has no higher obligation than tending to the safety of the people.

It took a long time and a lot of hard work to get us here today. Along the way we discovered that no plan is perfect, no plan is supported by all parties, and no plan is guaranteed to deliver everything that it promises. Challenging technical questions were accompanied by equally challenging questions of policy and of law. At the end of two years of study, analysis and stakeholder input, we have now come to a decision that can fix the problems it addresses, advance public safety and serve the public interest.

Today we approve a reconfiguration of the 800 MHz band so that public safety spectrum is insulated from interference from Nextel operations and public safety is given access to additional spectrum to do its job. We mandate that Nextel pay all relocation costs, even if they are above the \$850 million figure that the company has discussed. We mandate that Nextel secure an irrevocable letter of credit for \$2.5 billion so that the public safety community knows that it will have the money it needs to relocate. We establish a transition manager that will be independent of any one interest, and that I hope will work to make the transition serve the public interest of minimizing interference and getting public safety operations to a stable place as soon as possible. We state that upon receiving the Comptroller General's analysis of appropriations statutes, we can stay relevant portions of the Order if appropriate. And finally, we establish a mechanism to protect tax-payers against private sector windfall.

It's a good day for public safety, a good day for America. I think the citizens of our country now are looking to us—all of us—to get on with the job of putting this plan into action. Time and delay are not our friends here.

I want to express my thanks to my colleagues, particularly the Chairman, to the Bureau and to our hard-working staffs for the extraordinary time, skill and energy they put into this long-running proceeding. And I want to express my deep thanks to the public safety community that worked so hard, traveled so far and thought so creatively to bring us to where we are today. The perseverance of all is certainly appreciated by this Commissioner.

**STATEMENT OF
COMMISSIONER JONATHAN S. ADELSTEIN**

*Re: Improving Public Safety Communications in the 800 MHz Band; WT Docket
No. 02-55*

The interference situation in the 800 MHz band is one of the most challenging wireless issues the Commission has ever faced. We are trying to untangle years of actions that have created unacceptable and dangerous interference problems for our nation's first responders. I am pleased to support today's item because it puts in place the necessary components to greatly minimize, and hopefully eliminate, the interference currently experienced by our nation's first responders who communicate on land mobile radio systems in the 800 MHz band, particularly during times of emergency. This interference is an unacceptable crisis that must be fixed. Today we give our licensees what they asked for – the regulatory tools to solve the problem both through rebanding and enhanced best practices.

The urgent needs of the public safety community is one of the top priorities of the Commission, and certainly this Commissioner. Public safety officials put their lives on the line for all of us every day, and their situation commands the highest level of attention and priority at the Commission. The very first paragraph of the Communications Act charges the Commission to promote “the safety of life and property through the use of wire and radio communication.”

Today we step up to that responsibility, and it is important that in doing so we speak with one voice as a Commission. The stakes here are as high as in any proceeding we consider. We simply have to get this right. Throughout this proceeding, I have worked very hard with my colleagues to explore all aspects of rebanding, including different mechanisms for funding and a variety of spectrum configuration options. We worked tirelessly through countless options to find the approach that met the concerns of public safety while remaining within the bounds of the authority granted to us by Congress.

I know that some may say that the Commission moved too slowly to take this action. But I want to emphasize that the time has been very well spent. Since early this year, my staff and I, in conjunction with some of the other Commissioner offices, have worked extensively with the Commission staff to ensure that this item provides the best blueprint possible for 800 MHz rebanding. There simply is too much at stake to get this wrong. It is especially important that we put in place an appropriate mechanism to ensure that all necessary resources are provided to meet the needs of public safety agencies, and that any incentives to limit assistance are minimized. I also am pleased that the item puts in place procedures to minimize as much as possible the impact of our decision on 800 MHz licensees not directly implicated by the interference problem.

Finally, while this proceeding likely impacted every Bureau and Office in the Commission, I want to acknowledge the extraordinary efforts of the staff of the Wireless Telecommunications Bureau in tackling this once in a lifetime challenge. I want to specifically thank Michael Wilhelm, who managed this project from the beginning, and the staff of the Public Safety and Critical Infrastructure Division for their outstanding work on this project – it truly has been a fine performance of government service.

This decision's primary goal is to protect the nation's police, fire and emergency medical personnel who are on the front lines of our country's public safety efforts. Our decision today puts that priority front and center, right where it belongs.